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RECREATIONAL BOATING SAFETY—PART II

4. M 53:103-54

RING

Recreational Boating Safety - Part...

RE THE

COMMITTEE ON
COAST GUARD AND NAVIGATION
OF THE

COMMITTEE ON
MERCHANT MARINE AND FISHERIES
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

ON

H.R. 2812—THE RECREATIONAL BOATING SAFETY ACT
OF 1993

AND

H.R. 3168—THE RECREATIONAL BOATING SAFETY
IMPROVEMENT ACT OF 1993

OCTOBER 6, 1993

Serial No. 103-54

MAR 2 1994

Printed for the use of the Committee on Merchant Marine and Fisheries



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RECREATIONAL BOATING SAFETY—PART II

WEDNESDAY, OCTOBER 6, 1993

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COAST GUARD AND NAVIGATION,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:20 a.m., in room 1334, Longworth House Office Building, Hon. W. J. (Billy) Tauzin (Chairman of the Subcommittee) presiding.

Present: Representatives Tauzin, Pickett, Pallone, Laughlin, Coble, Diaz-Balart, and Fields.

Staff present from the Committee on Merchant Marine and Fisheries: Joan Bondareff, Senior Counsel; Lee Crockett, Majority Professional Staff; Suzanne J. Waldron, Press Secretary; Harry Burroughs, Minority Staff Director; Rebecca Feemster Dye, Minority Counsel; Margherita Woods, Minority Staff Assistant.

Staff present from the Subcommittee on Coast Guard and Navigation: Elizabeth Megginson, Staff Director/Counsel; Douglas Cheramie, Majority Professional Staff; Matt Szigety, Coast Guard Fellow; Catherine Tucker, Subcommittee Clerk; and Edward L. Lee, Minority Professional Staff.

STATEMENT OF HON. W.J. (BILLY) TAUZIN, A U.S. REPRESENTATIVE FROM LOUISIANA

Mr. TAUZIN. The hearing will please come to order.

The Chair wishes to apologize to Members and to our guests today for his lateness. We were introducing the Cooper health care reform plan this morning and were tied up in a press conference.

First let me welcome all of you today to the hearing to receive testimony on recreational boating safety legislation that has been referred to this Subcommittee. As a result of this Subcommittee's June 24th hearing on the National Transportation Safety Board's study of recreational boating safety, two bills were introduced addressing several of the issues identified by the testimony. On September 29, 1993, I introduced H.R. 3168 while on July 30, 1993, the distinguished Ranking Minority Member of the full Committee, Hon. Jack Fields of Texas, introduced H.R. 2812.

I would like to thank the Coast Guard, the National Transportation Safety Board, the National Association of State Boating Law Administrators, the Boat Owners Association of the United States, the National Marine Manufacturers Association, the Marine Retailers Association of America, and the States Organization for Boating Access for their extraordinary involvement in the development of H.R. 3168.

My bill will create a Federal requirement for the mandatory wearing of life jackets for children, encourage States to adopt important boating-while-intoxicated laws, limit the spending of Federal Boating Safety funds for construction of public access sites, and provide the Coast Guard with the authority to require boating safety violators to take a boating safety course.

I am looking forward to hearing the views of our distinguished panel on the legislation before this Subcommittee. I ask that each witness summarize his testimony. Your written statements will be made part of the hearing record.

I would now like to recognize our distinguished Ranking Minority Member, Hon. Jack Fields for an opening statement.

STATEMENT OF HON. JACK FIELDS, A U.S. REPRESENTATIVE FROM TEXAS

Mr. FIELDS. Thank you, Mr. Chairman. I appreciate your holding the hearing today to pursue the provisions of our bills to increase recreational boating safety in U.S. waters. Boating safety is a primary concern of recreational boaters across the country, and I look forward to hearing the testimony of our witnesses on the most effective ways to promote safety on our waterways.

Two tragic accidents that occurred earlier this year demonstrated the need to act immediately to strengthen our boating safety laws. Last March, two Cleveland Indians baseball players died when their boat crashed into a dock at high speed on a small lake at night. The operator of the boat was intoxicated.

The second fatal accident occurred last July when seven members of an Arkansas family died in a 12-foot boat that could safely carry three people. Five of the victims were children, ranging in age from 18 months to 10 years. The accident occurred in daylight in calm river waters close to shore. None of the victims was wearing a life jacket and, reportedly, only the father knew how to swim.

The recent report from the National Transportation Safety Board also highlighted the critical need for recreational boating safety improvements. In that report, the NTSB found that alcohol use was involved in at least half of all boating accidents, and that 85 percent of those who drowned in recreational boating accidents were not wearing personal flotation devices of any type. I agree with many of the recommendations made by the NTSB to increase boating safety, and incorporated them into my bill, H.R. 2812, the Recreational Boating Safety Act of 1993.

H.R. 2812 will require the Coast Guard to increase enforcement of boating-while-intoxicated laws in cooperation with State officials and improve the information that is received by Federal and State boating officials on recreational boating accidents.

H.R. 2812 requires young children to wear personal flotation devices aboard recreational vessels and it requires the Coast Guard to expedite approval of fully inflatable life jackets.

My bill will also require mandatory boating safety education for individuals who commit serious boating law violations, and it directs the Coast Guard to develop a plan for education and certification of children who operate recreational vessels.

Mr. Chairman, according to Texas State boating officials, 71 people drowned in my State last year. They estimate that more than half of those individuals would not have died if they had been wearing personal flotation devices.

This legislation is strongly supported by the Boat Owners Association of the United States and the National Association of State Boating Law Administrators. In fact, the President of Boat/U.S., Mr. Richard Schwartz, noted that this legislation "is a step in the right direction and those who oppose it are out of step with the best interests of the boating public."

Finally, since I may have to leave before this hearing is completed, I would like to emphasize two additional points.

First, it is my firm belief that small children should wear life jackets on boats of all sizes, at all times, except when they are in enclosed cabins; and second, individuals who commit serious violations of boating laws should be required to take a boating safety course, regardless of the administrative burden it places on the Coast Guard.

The Coast Guard receives over \$30 million each year in boat safety funds, and it is time for them to use more of these funds for education and awareness, or if they refuse, then the Coast Guard should give the money back to the various States.

I look forward to early action on this legislation so that we can prevent more deaths, and I pledge my cooperation working toward that end.

Mr. TAUZIN. I thank the gentleman for that cooperation and offer him the same cooperative spirit. We hope as a result of this hearing we can meld our two pieces of legislation into a single piece that can move forward as rapidly as possible.

Mr. TAUZIN. Mr. Pallone, do you have an opening statement?

**STATEMENT OF HON. FRANK PALLONE, JR., A U.S.
REPRESENTATIVE FROM NEW JERSEY**

Mr. PALLONE. Just to indicate that I think this legislation is definitely needed and the different concerns that are expressed in terms of life jackets for children and encouraging States to adopt laws that deal more effectively with drunk boating, if that is the word, or intoxication, and also the idea of having a boating safety course required. I think those are all things that we have needed for a long time and I commend you and Mr. Fields for bringing it to our attention.

Mr. TAUZIN. Indeed we have been kicking these issues around for a long, long time. We are pleased now that we are here today, all the affected organizations and agencies, and hopefully we can receive some good testimony today about what is right or what is wrong with our proposals.

We will start with Rear Admiral William Ecker, Chief of the Office of Navigation Safety and Waterway Services, United States Coast Guard.

Admiral Ecker, welcome.

**STATEMENT OF REAR ADMIRAL WILLIAM J. ECKER, CHIEF,
OFFICE OF NAVIGATION SAFETY AND WATERWAY SERVICES,
THE UNITED STATES COAST GUARD**

Admiral ECKER. Thank you, Mr. Chairman.

It is my pleasure to appear before this distinguished Subcommittee today. I have a summary statement to make and would ask that my full statement be entered into the record.

My statement this morning concerns H.R. 3168, the Recreational Boating Safety Improvement Act of 1993 and H.R. 2812, the Recreational Boating Safety Act of 1993.

H.R. 3168 contains several innovative strategies to address several important boating safety issues. The Coast Guard supports the provisions of this bill. Overall, the Coast Guard believes that the enactment of H.R. 3168 will be a positive step in promoting increased participation in the national recreational boating safety program which has been so successful in improving safety and fostering enjoyment of boating.

With respect to Mr. Fields' bill, H.R. 2812, the Recreational Boating Safety Act of 1993, we concur with several sections of the bill and have some reservations about the others.

Section 2 of H.R. 2812 would require the establishment of a program to reduce the number of boating fatalities by increasing or concentrating enforcement of boating while intoxicated laws in areas where many boating accidents have occurred or in areas where boating accidents involving the use of alcohol have occurred.

Many States already have such programs. For example, Maryland has its SWAMP, Safer Waterways through Alcohol Monitoring program, and Louisiana has a strike team complete with a mobile command unit that can be sent into designated areas for concentrated enforcement efforts. However, not all States could employ sufficient resources for this type of effort without leaving other boating areas devoid of necessary enforcement or rescue capability.

Section 3 would require persons 12 years of age or younger to wear a personal flotation device except in a closed cabin on a vessel. This section goes beyond Section 2 of H.R. 3168 in that it would apply to all vessels regardless of length and it doesn't limit wear to when the vessel is under way.

We believe that Section 2 of H.R. 3168 is more appropriate as a Federal minimum requirement.

Section 4 would require submission of a plan to approve fully inflatable life jackets for use as personal flotation devices under appropriate conditions. We support the approval of inflatable PFDs for recreational boats.

The Coast Guard has drafted, and will publish in several weeks, an advanced notice of proposed rulemaking outlining a plan to approve inflatable PFDs.

Section 5 would require a plan to increase reporting of vessel accidents to appropriate State law enforcement officials. The Coast Guard estimates that less than 5 percent of non-fatal boating accidents are reported as required by law and regulation. The majority of recreational boaters are uninformed and/or apathetic about accident reporting requirements.

Despite our best efforts to improve the number of reports received from the boating public, the quality of information will still be questionable unless the accident is investigated by law enforcement personnel.

We are working with States to try and ensure that fatal and possibly the most serious non-fatal accidents are independently investigated so that better data will be available.

Section 6 would require a three-level State Marine Casualty Reporting System for reporting comprehensive information for each serious vessel accident, including information on alcohol use, PFD use, and operator education. This language appears to be based on a recommendation of the NTSB Report on Recreational Boating Safety that the Coast Guard implement a fatal accident reporting system similar to the National Highway Traffic Safety Administration's Fatal Accident Reporting System, FARS.

The Coast Guard examined the NHTSA FARS system some time ago. We don't believe that it is necessary to implement this type of system for our purposes. The boating accident report required by Federal regulation already includes information on the accident, vessels involved, and the persons killed or injured. The form also requests information on alcohol use, PFD use, and operator education. The Coast Guard has initiated several actions to improve the quality of accident data primarily addressing boat accident investigations which are the key to collecting meaningful data. Accident investigation training is now an integral part of the National Boating Safety Instructor Course for State boating personnel taught at the Coast Guard Reserve Training Center in Yorktown.

In addition, we have funded, for the second year with our Boating Safety Grant program, continuation of an ambitious program with the Marine Index Bureau to determine feasibility of obtaining boating accident data from insurance companies on a continuing basis.

Section 7 of the bill would require mandatory boater education for serious violations. While we concur with the intent of this section, we do not concur with the mandatory requirement.

Section 5 of H.R. 3168 is preferable in that it makes this tool available for discretionary use.

Section 8 would require development of a plan to provide mandatory safe boating education and certification to individuals 12 years of age or younger who operate recreational vessels. The lack of State and local resources has been a major impediment to implementation of a voluntary boat safety education program for young boat operators.

Implementation of a mandatory program would be even more difficult. It would seem that this is a matter that can be best managed at the State level and will depend upon a particular State's available resources. We do not support, at this time, a federally operated mandatory educational program.

In closing, we look forward to enactment of the most comprehensive and beneficial boating safety bill possible considering the many valuable ideas proposed by the Committee members.

Mr. Chairman, that concludes my summary statement.

Mr. TAUZIN. Thank you, Admiral.

[The statement of Admiral Ecker may be found at end of hearing.]

Mr. TAUZIN. We will next welcome Lieutenant Colonel Charlie Clark, President of the National Association of State Boating Law Administrators.

The Committee wishes to again recognize the extraordinary contributions of your organization and the individual offices within the States with regard to boating safety. Your record reflects exceptionally well upon your activities.

Welcome.

STATEMENT OF LIEUTENANT COLONEL CHARLIE CLARK, BOATING LAW ADMINISTRATOR, STATE OF LOUISIANA, AND PRESIDENT, NATIONAL ASSOCIATION OF BOATING LAW ADMINISTRATORS

Lt. Colonel CLARK. Thank you, Mr. Chairman.

I am Lieutenant Colonel Charlie Clark, Boating Law Administrator of the State of Louisiana and I serve as President of the National Association of Boating Law Administrators.

Our association is pleased to appear before your Subcommittee to comment on H.R. 3168, the Recreational Boating Safety Improvement Act of 1993 and H.R. 2812, the Recreational Boating Safety Act of 1993. Following the June 24th hearing, we have responded to your discussion draft of what has now become the bills before us.

In my remarks, I will only touch on the highlights of H.R. 3168 and H.R. 2812.

First I would move to Section 3 of H.R. 3168 and have to comment on the limitation of percentage amount of boating safety program allocation used for public access sites. Although our association generally concurs, we want you to understand that several States that are using in excess of 25 percent of these funds show strong reservations about this cap. Our entire association continues to view with concern the placement of a cap on any of the eight categories within that account.

Section 4, allocation of funds raised on State adoption of laws regarding boating while intoxicated, we concur with the section of both bills. Even though some States presently would not meet the criteria necessary to take advantage of funding, we applaud H.R. 3168's incentive approach to gain State compliance thereby rewarding those States who are in compliance without reducing funding to those States presently unable to comply with the Federal requirement.

I move to H.R. 2812, Section 4, the plan to approve fully inflatable life jackets. Our association concurs. However, we suggest a dialog be developed between the Subcommittee and the Coast Guard to ensure that adequate time is allowed for testing and compliance.

Our association recently adopted a resolution that urged the Coast Guard to essentially proceed along the same path as this section of proposed law, and that resolution is attached to the back of our statement.

H.R. 2812, Section 6, increase boating casualty information. Our association cannot comment on this section until it has thoroughly

reviewed the three-tier system referenced in the bill. However, the association does concur that more information is needed regarding boating safety accident causes to accurately determine future program needs.

Our association recommends that the Subcommittee ascertain cost to implement this requirement and take necessary steps to ensure adequate funding to compensate for the additional manpower and other costs associated with the program.

H.R. 2812, Section 8 under the safe boating plan, education plan, if this responsibility would be carried out by the Coast Guard using Coast Guard personnel, our association would have no recommendation and leave that to the Coast Guard determination. However, if it is being contemplated that the States will be carrying out this mission, our association could not support this mandate without adequate additional Federal funding.

Mr. Chairman, in our association's previous testimony before your Subcommittee on H.R. 3168, our written response, phone calls, visits to your staff, we have urged permanent appropriations on a boating safety account of the Aquatic Resources Trust Fund, Wallop-Breaux. Now that we no longer see any increase in additional fuel tax revenue into this trust, permanent appropriations become even more important at this time.

We continue to think it is important to give the States continuity to enhance long-range program planning for the purpose of implementing our program expansions as listed in our boating safety dollars at work publication, the recommendations listed in the National Transportation Safety Board's safety study on recreational boating safety and the additional mandates that are included in two bills now being discussed by the Subcommittee.

We feel that it is imperative that the boating safety account be afforded permanent appropriation the same as the sport fish restoration account. This would seem logical since both accounts are funded from the Aquatic Resource Trust Fund which is comprised of Federal tax dollars, boaters, and marine fuel. Returning those funds to the States in our opinion would be in keeping with user fee concept—user pays, user benefits.

Our association requests the assistance of this Subcommittee to help find a solution to the funding issues that are so important to the success of our boating safety efforts.

Mr. Chairman, thank you for allowing our association to give input into this hearing and we thank you, the Subcommittee members and the staff for carrying the boating safety torch.

Mr. TAUZIN. Thank you, Mr. Clark.

[The statement of Mr. Clark may be found at end of hearing.]

Mr. TAUZIN. We now welcome Mike Sciulla, Vice President of the Boat Owners Association of the United States.

STATEMENT OF MICHAEL SCIULLA, VICE PRESIDENT, BOAT OWNERS ASSOCIATION OF THE UNITED STATES

Mr. SCIULLA. Good morning. It is a pleasure to be here.

Before I begin, I would like to let you know how much we appreciate the time and effort that you and your staff have put into this important issue.

Regarding Section 2 on the life jackets, we testified in favor of the concept of requiring children 12 and under to wear life jackets during the hearing last June and in fact we published an article on the front page of BOAT/U.S. Reports, which Congressman Fields cited, strongly endorsing the concept.

I would like to include a copy of that article in the record.

Since then, we have received some negative comments from the boating public. Some of our members have been complaining that 10-to-12-year-olds will find it very uncomfortable to be required to wear bulky life jackets, especially in humid 95 degree weather.

One member who owns a 26-foot sloop wrote us saying, "My boat's cockpit is deep and surrounded by lifelines. Our waters are uncrowded and my children are good swimmers. Just because a couple of drunks ran into a dock and some fool overloaded a 12-foot skiff, why should our children be forced into a position where they would rather stay home than sail? They are safer without life jackets under the conditions in which we sail than they are driving to our marina."

Another member who has been an active instructor in the U.S. Power Squadrons for 25 years questioned why the age of 12 was chosen, contending that many 12 year olds are better and stronger swimmers than their fifty-year-old dads: "Most life jackets are bulky, hot, cumbersome, unflattering and bothersome," he said. "If this were not true, more people would wear them. Requiring people to wear these devices at a young age will only discourage their use at a later age."

Some months ago there was a canoe accident in one of the lakes in Northern Virginia. I think an eight-month-old went over the side and drowned. Local Channel 8 called us and said "We would like to get the word out on how important it is for children to wear life jackets. Can you put together a couple of youngsters and meet us at the Washington Sailing Marina. We will film a piece."

We said "Sure." I turned to my staff and we had an eight-year old daughter of a staffer who agreed or the mom agreed to bring her to the sailing marina and get into a life jacket and get into a boat. I had my wife bring my 15-month-old-son Logan along for the ride. We have a pool in the backyard so I had bought him a couple of weeks earlier a Mickey Mouse life jacket that he became very fond of wearing.

We went to the sailing marina and the eight-year old absolutely refused to get into the life jacket. Logan on the other hand took one look at Mickey Mouse and jumped in and as it turns out, Logan was on TV six times that night. For a 15-month-old, it was a heady experience.

Personally I wouldn't have a child on my boat without a life jacket, but I think we need to look at whether it is 12 and under, 10 and under, 8 and under, or 6 and under.

Now, BOAT/U.S. in early spring did a survey of our members in Florida. That State had just gone to a 6-and-under life jacket requirement. At the time we internally favored the 12 and under requirement so we asked the question "Would you be in favor of going to 12 and under?"

The response we got was 41 percent in favor and 54 percent opposed, so I think it is fair to say there is some strong opposition out there on 12 and under.

We recently came across the statistics which are in my testimony. They indicate that over a five-year period, from 1988 through 1992, some 2.7 percent of the total number of boating fatalities involved children 12 and under. I am not sure that any statistics are available for 8 and under, 6 and under, what have you.

Mr. Chairman, this is a controversial issue. Our concern is that helpless individuals and young children be protected while aboard a recreational vessel. We recommend that a Federal minimum standard be enacted under which all children age 6 and under be required to wear a Coast Guard PFD.

This would follow the approach developed by two of our largest boating States, Florida and California. Since there will always be a potential risk for young children even when a boat is at anchor, we recommend that children age six and under be required to wear a device at all times on any size boat except while in an enclosed cabin.

In addition, to ensure that the States have maximum flexibility, we recommend that any State be allowed to go from six to twelve as far as a wearage requirement is concerned.

Finally, we would like to renew our objection to the \$5,000 penalty for violation of this law. We think it should be closer to that provided for failure to wear a seat belt. As to requiring boating violators to take a boating safety course, we think this section could be improved.

Under the current proposal you could take an equivalency exam and meet those requirements. We don't think that a violator of boating safety laws should be allowed to take an equivalency exam.

Furthermore, drunk boaters ought not to be put just in a boating safety course. We ought to put them in a course designed for drunk boaters.

Regarding Mr. Fields' bill, Mr. Chairman, we support his proposal to establish a program to reduce boating fatalities by increasing or concentrating enforcement of boating while intoxicated laws in areas where they occur. We fully support the inflatable life jacket provisions. We think that the Coast Guard should take some of the \$30 million that it gets out of the boat safety account. I understand that maybe they spend \$5 million out of that \$30 million on boating safety.

There is still \$25 million available that is not spent on boating safety. It is spent on search and rescue, aids to navigation. The law says the money is supposed to be spent on boating safety and the Coast Guard Auxiliary. It is not being spent here, however.

Let's take some of that money, put it into R&D on inflatable life jackets, and give technology the ability to give people the incentive to wear life jackets.

Regarding Mr. Fields' Sections 6 and 7, the Coast Guard reported some 6,000 boating accidents in 1992. The Marine Index Bureau is working on boating accidents. They recently concluded a study which indicated that there were 118,000 accidents reported to the marine insurance industry. Obviously there is much more going on our waterways than the statistics would lead us to believe.

We think that the Coast Guard has got to develop better statistics and anything that you could do to encourage that would be appreciated.

Thank you, Mr. Chairman.

Mr. TAUZIN. Thank you.

[The statement of Mr. Sciulla may be found at end of hearing.]

Mr. TAUZIN. Next we will hear from Mr. James Duke, Vice President of the States Organization for Boating Access.

STATEMENT OF JAMES DUKE, CHIEF, PUBLIC BOATING ACCESS PROGRAM, SOUTH CAROLINA WILDLIFE AND MARINE RESOURCES DEPARTMENT, AND VICE PRESIDENT, STATES ORGANIZATION FOR BOATING ACCESS; ACCOMPANIED BY RON STONE, SECRETARY, STATES ORGANIZATION FOR BOATING ACCESS

Mr. DUKE. Mr. Chairman and distinguished members of the Subcommittee, my name is James Duke. I am Chief of the Public Boating Access program for the South Carolina Wildlife and Marine Resources Department. I am here testifying before you today in my capacity as Vice President of the States Organization for Boating Access, also known as SOBA.

At the outset, let me clarify that the States Organization for Boating Access is a national organization of State government officials representing 50 different jurisdictions responsible for administering, financing, developing, and maintaining recreational boating facilities.

SOBA was a direct outgrowth of the creation of the Wallop-Breaux Trust Fund in 1984. We came into being to help further Federal-State cooperation and coordination in the optimum use of Federal aid for State and public boat access programs. We are very proud of our achievements in this area.

Since the beginning of the Wallop-Breaux fund, our members have built, renovated and maintained in good repair more than 10,000 public boat launching ramps around the country. It is altogether appropriate that public boat access is eligible for funding from the boat safety account because that is where boat safety begins.

Although SOBA is not involved in actual on-the-water boating safety, law enforcement and education which is the province of the Coast Guard and others, we are in a position to help. Two years ago, for example, we captured the Coast Guard's interest and contributions in developing national guidelines for barrier-free safe access to water for persons with disabilities.

More recently we have been trying to interest the Coast Guard in working with us on a risk management manual to help make boaters more safety conscious in and around public boat launching ramps. Because we feel so strongly that public boat access is part of the boating safety picture, we ask your Subcommittee to strike Section 3 of the Recreational Boat Safety Improvement Act which would impose a 25 percent cap on discretionary State spending on the public boat access projects under the Wallop-Breaux Fund's boat safety account.

Currently under the boat safety account, States are given the unconditioned option of spending their share of Federal aid on any one or more of eight different kinds of programs which Congress has deemed to make up a comprehensive boating safety program. Specifically, that includes acquisition, construction or repair of public access, as well as safety law enforcement, education, search and rescue, aid to navigation, boating accident investigation and analyses, and provision of boat numbering and titling systems.

Under the 1984 Wallop-Breaux Act, Congress did not put a floor or ceiling on how much the States are required to obligate or spend on any one of these eight different kinds of programs. It was left to the States' discretion to prioritize how they want to use their share save only that the Coast Guard as fund administrator would look for a well-rounded boating safety program.

Over the years, we have heard Coast Guard spokespeople comment that some States have a tendency to spend more on one kind of program than another, more law enforcement than education for example; but to our knowledge, the Coast Guard has never made a serious issue of it. If in the Coast Guard's opinion certain States do not have well-rounded boating programs, the Coast Guard already has the authority to work with the States to make whatever adjustments they may deem necessary in the overall State boating safety program.

We do not understand why public access spending under the boat safety account is being singled out as an issue now. There is little such spending on the whole.

Since the beginning of the Wallop-Breaux Fund, fewer than 10 States have consistently tapped into the boat safety account for public access. The most recent function by function analysis of how the boat safety account is spent shows that barely 5 percent of total expenditures go for public boat access compared to more than 60 percent for law enforcement alone.

The complaint is that three or four States have spent a greater proportion on public access than on other programs, but that is taking things out of context. What about the more than 40 States where most of the money is spent on other programs to the total exclusion of public boat access projects? All around the country today, even in the smallest States, you can find long waiting lines at launch ramps on weekends and holidays.

From SOBA's perspective, there is a chronic shortage, not an overabundance of public access. To those who submit that perhaps we are approaching the saturation point with too many boats getting access to limited water resources, we must point out that the perceived excess is not the choice of the boaters, but a consequence of their being confined to waters where there is decent access.

If public access construction is allowed to progress under the Wallop-Breaux Fund providing more widespread access to boatable water it will help disperse the boating population, relieve overcrowding, and make the water safer for everyone.

Another reason that SOBA takes issue with the perception that we are becoming saturated with new construction is that in many States maintenance and renovation of existing facilities are more compelling than constructing new sites. It should not be overlooked

that maintenance and repair of existing facilities are authorized uses of the Wallop-Breaux Fund.

We cannot fathom why public boat access spending of all the programs under the boat safety account needs or deserves to be curtailed. States' discretionary spending authority should be no less inhibited in this area than in any other under the boat safety account.

Let the States continue to decide what is best for boating safety within their jurisdiction by deleting section 3 of the proposed legislation.

Thank you, Mr. Chairman.

Mr. TAUZIN. Thank you very much, Mr. Duke.

[The statement of Mr. Duke may be found at end of hearing.]

Mr. TAUZIN. Our final witness will be Mr. Phil Keeter, Executive Director of the Marine Retailers Association of America.

STATEMENT OF PHIL KEETER, EXECUTIVE DIRECTOR, MARINE RETAILERS ASSOCIATION OF AMERICA

Mr. KEETER. Thank you. I appreciate this opportunity to present testimony on recreational boating safety and the two bills introduced to address the concerns expressed in the National Transportation Safety Board study on recreational boating.

We commend you and Congressman Fields for your leadership in this regard. As we testified at the Subcommittee hearing on June 24th, MRAA agrees with the intent of the NTSB report that additional work needs to be done to improve our excellent boating safety record. Some of the problem areas identified by the NTSB report are obviously correct.

Issues of alcohol abuse, life jacket wear, the lack of reliable accident information, mandatory operator education and operator licensing have long been on the docket by those of us concerned with improving boating safety.

We commend the NTSB for once again placing these issues before the public. However, I would like to state to you this morning that we don't want anyone to forget that the recommendations of the NTSB report were released on the heels of the distribution of the Coast Guard's benchmark on boating safety, the fatality rate, which shows that our Nation's waters have never been more safe at 4.0 fatalities per 100,000, with this rate continuing a downward spiral for the last 20 years.

On the positive side, we believe significant progress has been made in boating safety, but we think more needs to be done and we support the intent of both H.R. 2812 and H.R. 3168. Let's address a few of those concerns.

We support strong BWI laws and commend you and Congressman Fields for including appropriate language in Section 2 of the H.R. 2812 and Section 4 of H.R. 3168 to encourage adoption of these laws in States that do not presently have BWI laws.

We support children wearing life jackets or PFDs, but the American Red Cross Survey of Recreational Boating indicated that 91 percent of children under 12 are now wearing PFDs. Many of our members who are located on the water will attest to the fact that this figure is true. However, we would ask the Committee to con-

sider changing the threshold in Federal law to 6 years from 12 and under, then allow the States to develop more stringent laws as conditions warrant.

MRAA also supports an educated boater. We do not support blanket mandatory education. We do support both Section 7 of H.R. 2812 and Section 5 of H.R. 3168 which address the issue of requiring serious violators to take a recreational boating safety course. We have long supported this concept. Our only concern is that the language in these bills must include a clear legal definition of what a serious violation is.

We oppose Section 8 of H.R. 2812 which would require the Secretary of Transportation to develop a plan for a mandatory education and certification program within six months. We believe clearly that this is a State issue and that the Federal Government should not be administering a nationwide boater education program.

H.R. 2812 also calls for a plan to approve fully inflatable life jackets. We believe boaters will wear these devices when they are Coast Guard approved, and we strongly support the intent of that section. However, based on discussions with the Coast Guard, we understand that at least a year-and-a-half will be needed for proper research to ensure the proper operation of inflatables. We hope the plan will allow for sufficient research by the Coast Guard.

We are also opposed to Section 3 of H.R. 3168 which places a cap of 25 percent on States allocation from the Wallop-Breaux Fund for public access sites. MRAA supports free and unrestricted access to our Nation's waterways. We also believe that States must retain the right to manage Wallop-Breaux monies in the best way possible to suit the individual needs of that State.

At the present time, it is our information that only five States are using funds from the boat safety account to fund the construction of boat access ramps. Let's not compromise these States' financial ability to comply with the intent of Wallop-Breaux. We ask that section 3 be stricken from H.R. 3168.

We also strongly urge the Subcommittee to work with the Coast Guard and State governments to strengthen the data gathering process on boating accidents. Without proper reporting of data, we cannot analyze boating accidents and we cannot recommend sound public policy.

In conclusion, we support the intent of both bills, but we ask for consideration of the amendments that we described earlier. Passage of amended bills, we believe, will ensure continuation of 20 years of improvement in boating safety to levels we only could imagine.

Mr. TAUZIN. Thank you very much, Mr. Keeter.

[The statement of Mr. Keeter may be found at end of hearing.]

Mr. TAUZIN. As I listened to your testimony, I think I can spotlight the areas of controversy very quickly and maybe we can highlight them in some answers, such as the cap on use of funds for construction. Our records show only four States, not five according to the Coast Guard—California, Iowa, Minnesota and South Carolina—are the only States using any funds at all out of the Boat Safety Account for construction of access ramps.

Our information also is that the biggest user is California. California, according to the Coast Guard records, has some of the high-

est—higher than average rather—boating accidents statistics. So there seems to be a relationship to the fact that California uses less in percentage of its funds for boating safety, by using these funds for access construction to the ratio of the number of boating accidents in the State. It may warrant some sort of signal from this Congress that we would like to see those moneys put into boating safety.

I am informed by staff that most other States use the Sportfish Restoration Account to build their access ramps. California does use Sportfish Restoration Account for its inland waterway ramps and uses Boats Safety Account for its coastal waterway ramps.

Could you straighten that out?

Mr. DUKE. Could I defer the first part of your question to our secretary, Mr. Ron Stone?

Mr. TAUZIN. If he will please identify himself for the record.

Mr. STONE. I am Ron Stone, Secretary for the States Organization for Boating Access.

Your comments are well taken. We did research anticipating your questioning about the California program. We compared California's accident rate to other States that spend nothing on public access, but are very heavy on law enforcement.

Florida comes to mind. They have a roughly equivalent number of registered boats. California is second; Florida is fourth. California has a better boating safety record than Florida. This is true in other States if you compare Iowa to Indiana or Tennessee to South Carolina. States spending well on public access have as good as if not a better boating safety record than States that are focused on law enforcement and other programs.

We don't think that the spending on public access is diminishing boat safety. We like to think that public access makes a very position contribution to the safety of the user because that is where you can get at him with an education message before he goes out on the water.

Mr. TAUZIN. Obviously the cap issue is a controversial part of the legislation. It affects only four States. It is critical for us to know whether it is an important piece to consider continuing in the bill.

Is it true that California has as good or comparable a safety record while spending less of its funds on boating safety than the other States who use none of those funds for access construction?

Admiral ECKER. I wouldn't have any reason to dispute the statement. I would point out that the restriction only applies to Federal funds provided in the boat safety account. The four that you mentioned were representative of 1992 data. We envision that those States that wish to continue to do so would merely shift spending of funds to the State portion as opposed to the Federal portion.

We envision that this cap would have a minimal effect on safety.

Mr. TAUZIN. That is going to happen anyhow. It is just a matter of shifting funds around. Is the cap going to have a meaningful effect upon boating safety in those States?

Admiral ECKER. It hasn't so far, and I wouldn't envision that it would in the future.

Mr. TAUZIN. Would the imposition of a cap do anything good for us here?

Admiral ECKER. It might shift some funds around, but I can't think of anything off the top of my head.

Mr. TAUZIN. You see what I am getting at. If we are going to impose a condition upon the States' use of these funds, it ought to be tied to some realistic expectation that we are going to get something back in terms of boating safety. If not, it is a meaningless restriction that perhaps we ought not include. That is the issue.

You are telling me that you cannot conclude that it would have a meaningful effect on boating safety in the States because they will shift funds around?

Admiral ECKER. That is correct.

Mr. TAUZIN. Does anybody differ with that?

Let's move to the second area of controversy, which is the age requirement for children riding in boats and the length of these boats. Under the Fields proposal, there is no length requirement, any boat or any kid under a certain age would be required to wear a life jacket.

Under our proposal, we have a 26-foot-length and a 12-year age requirement. Staff informs me that twenty States currently have mandatory life jacket requirements for children. Of those, the majority, twelve, have chosen the age twelve as the minimum age requirement. Of the remainder, three only use six years of age and the balance, five, have ages ranging from seven through ten.

Ten seems to be the more preferable one. The bottom line is that most States who have moved ahead of us and who have adopted State standards selected age twelve as a standard for mandatory wearing of life jackets.

Here is a problem I see and I would like you to comment. If we pass a bill setting a Federal minimum standard, we run a serious risk of that becoming the national standard in State laws. I understand that we are only making a Federal standard here enforceable by the Coast Guard. We do not preempt the States in terms of its own law. But my concern is that if we adopt an age limitation lower than the one that is an age limitation of choice for other States, it might encourage those States to lower theirs to the Federal standard because there is an inconvenience in wearing life jackets.

There is a natural tendency of folks who boat with children to want to adhere to the minimum rather than what might be a safer standard. Once we set a standard, if we set age six as a standard, the fear that I and others have is that the States will be under great pressure to lower their State standards to meet the Federal standard.

Mike?

Mr. SCIULLA. I think to get to your point directly it might be best to ask Charlie because he has had the twelve-and-under standard for a number of years. I also took a look at the life jacket requirements. I counted 19. I counted eight that were twelve and under; three that were under twelve. My point being that the majority were not twelve and under. It depends on the way you read what the States have.

I am not the one to ask whether the States are going to really try to reduce their requirements.

Mr. TAUZIN. But you testified quite eloquently about the psychology of the issue and that is the point of my question. It is the psychology of the issue.

Do you anticipate pressure from boat operators and owners to the States to lower the standard once we adopt a standard less than twelve?

Mr. SCIULLA. No.

Mr. TAUZIN. Mr. Clark?

Lt. Colonel CLARK. As you know, the State of Louisiana does in fact have the twelve and under. I can tell you that in researching it, it was simply arbitrary that we wound up with that particular age. However, I believe in our recent conference, the American Society of Pediatrics endorsed the twelve year old mandate.

I would refer back to him on that issue. I can tell you that the 2.7 percent that we are looking at would probably have something to do with exposure also of children six and under wherein less children would boat six and under than with six and twelve.

Mr. SCIULLA. The reason we supported twelve and under was uniformity. We thought that was the overriding goal. I believe the American Academy of Pediatrics in response to the NTSB report recommended eighteen and under. I could be wrong, but I think——

Mr. TAUZIN. I think you are right on that. You can't deny one of the reasons you changed your position is because your constituent group told you. Fifty-four percent said "We don't like what you agreed to."

Mr. SCIULLA. As a national requirement, you are correct. But I think we can get to the end result by setting a Federal minimum standard and allowing the States to go up to twelve years old if they should choose.

I don't believe there would be significant pressure on the part of the boating public to get their State legislators to rescind those back to six.

Mr. TAUZIN. I think there will be significant pressure. I recall the great debate on seat belts. It is extraordinarily difficult to get a State to adopt a standard. I just suspect from my experience that you may be wrong on that. The fact that you already got the pressure to change your position from your constituent group and lower your support from twelve to six is a good indication of what is out there.

The psychology of this troubles me a great deal. That is one of the reasons why we have difficulty moving from the age of twelve.

Admiral, do you want to comment on it at all? You don't have to.

Admiral ECKER. Not really. I have never been in a State Legislature. I can't respond to the pressures. I think you can say that the fact that if a majority of the States are looking at 12-year-old or the under 12 as in their best judgment would apply to mandatory wearing of PFDs, I think it suggests that perhaps that is the direction that the Committee may wish to go also.

Mr. TAUZIN. You have to think about kids putting on seat belts and going to school. If we don't have some mandates, there would be a lot fewer kids going to school and a lot fewer kids wearing seat belts. If this is an important issue for the safety of those chil-

dren, and, Mike, if you wouldn't do it yourself, you wouldn't get a child in a boat under 12 without a life jacket on him—

Mr. SCIULLA. I don't think you will get any objection to six and under. The boating administrators recently passed a resolution recommending that everyone in a boat sixteen feet or less wear a jacket. If you want to get to really reduce accidents this is where you go to.

If this were implemented in the State of Louisiana and everyone in a pirogue were required to wear a life jacket, you would hear from the public rather quickly.

Mr. TAUZIN. We would have a revolution.

Mr. SCIULLA. If it is not good enough for the adult—I don't want to be—how should I put this—our concern is that we get the kids into life jackets with the minimum amount of objection from the public and the maximum amount of compliance.

Mr. TAUZIN. Let me hit something quickly there.

I see—I think most policymakers see a big difference between requiring adults who want to be stupid to be less than stupid. If you want to get in an unsafe boat and not wear a life jacket, nobody in policy positions normally will say to adults, you have to do it.

We do in some cases. For example, we require adults who ride motorcycles in some States to wear a helmet because of the evidence of fatality in motor cycle accidents without a helmet. We do it only in extraordinary circumstances and usually reluctantly.

With children it is a lot easier to get policymakers to say children are not yet equipped with the life experience to understand the nature of the hazard perhaps, and we ought to make sure that we require them this measure of protection. Adults who understand the nature of the hazard and still want to risk it may be a different matter.

With that in mind, it seems to me we are moving in the right direction in the two proposals in terms of mandating it upon children and vessels in our proposal that are more likely to be dangerous than on the larger vessels. Let's hit that.

There are three different concepts here. The one Mr. Fields talks about is children in any vessel, moving or nonmoving. That one recommends everybody in a vessel under 12. Ours is children in a vessel under 26 feet in length. Of those three alternatives, it seems to me the one we are recommending seems to kind of hit where we ought to be hitting in terms of Federal mandates. We are aiming at children who are less likely to understand the nature of the hazards, and we are aiming at vessels that are smaller and, therefore, likely to be more of a problem for us.

Anyone want to comment on that?

Admiral ECKER. I think using a limit on the size of the boat, 26 feet is probably as good as any. Statistically, the majority of deaths occur on smaller vessels where people don't wear PFD's, so I think the direction you have taken in your bill in putting a limit on size of the craft is the right way to go if you are going to get voluntary compliance by the boating public without the Cajun revolution that you mentioned earlier.

Mr. TAUZIN. Boats underway more likely than boats not underway?

Admiral ECKER. When people are at anchor and fall overboard, we have statistics to support that. I didn't have a problem with that part of the bill either.

Mr. TAUZIN. Mr. Clark?

Lt. Colonel CLARK. As you know, Louisiana's law is 26 foot and under. We addressed the possibility of ejection that existed. A small child on a boat and 26-foot boats usually do not have cabins, usually have low-profile sides on it. I think that was the issue addressed.

Mr. SCIULLA. I think there is probably common ground if you were to do 12 and under on boats 16 feet or less and 6 and under on boats over 16 feet.

Mr. TAUZIN. Admiral, inflatable life jackets. I don't have any doubt in my mind that Mike is right about kids putting on bulky life jackets and even adults putting on bulky life jackets. If it were possible for the Coast Guard to approve an inflatable life jacket that was very comfortable, that people were more likely to wear, children were more comfortable with and more likely to wear, that voluntary compliance with the safety provisions would, I think, rise dramatically.

What is the problem with the Coast Guard quickly and adequately researching and approving inflatable life jackets?

Admiral ECKER. Let me just comment on a few aspects of the evolution of the life jacket.

As you may recall, the bulky life jackets that were in existence during World War II reflected the philosophy of the Coast Guard at that time. If we are going to get people to wear life jackets, they have to be more comfortable, perhaps designed for the particular sport they are engaged in, whether skiing, personal water craft, sailboards or whatever. We have done this in the evolution of approval of life jackets to where we are today.

We have had a reluctance for many years over inflatable life jacket use for the general public largely predicated on the reliability of the inflation device, the ability to have it work when you need it, the aspect of servicing the jacket, et cetera. These are real concerns when you talk about reliability and whether or not the public is going to take that jacket in on a periodic basis and have it certified with a new cartridge, et cetera.

At this point in the evolution of the jackets, we, through the testing we have done, are much more comfortable with the development of inflatable life jackets. We have been working for quite some time with underwriters laboratories and manufacturers to develop an inflatable jacket that we would feel comfortable putting our stamp of approval on as a safety item for the general public.

The fact that we are going out with rulemaking and moving in this direction I think is the answer to your question.

Mr. TAUZIN. Give me a timetable. I can tell you that the great majority of Members would feel comfortable with mandates at a high age limit if we knew that inflatable life jackets were a probability in the near future. How far are we from that?

Admiral ECKER. If you look at the regulatory process, we are looking at a year-and-a-half before we get to a final rule.

Mr. TAUZIN. Is that before or after reinventing government?

Admiral ECKER. You got me. I still think, given the nature of the process and the kind of response you are going to get from this and the work that has to be done going through the regulatory process, realistically, I think a year-and-a-half. We took a year—and I had it on the fast track—just getting the new regulation out August 4 this year that changed the carriage requirements for boats less than 16 feet.

Mr. TAUZIN. How do we shorten the timetable?

Admiral ECKER. Shorten the comment periods. Keep people's feet to the fire while doing the evaluation, and hope that you don't get an overwhelming number of comments that have to be addressed in crafting the final rule. It is a work load impact, to some degree, and a reflection of the comment period.

Mr. TAUZIN. I would like your thoughts. Some of you mentioned using more of the Coast Guard allocated funds to get this job done quicker. I would like all your thoughts whether or not in this legislation we can include anything to expedite that process and get it resolved. I think that some of the controversy over these mandates would be settled if we had that issue resolved. I think the boating public would deeply appreciate us resolving that issue and getting approved devices out for people to use. All the testimony we have heard tells me that that is a solution that begs for birth and arrival here. We just need to make it happen.

Give us your thoughts on how we can help make it happen in this legislation. If there is something we can write to expedite that process, I want to know what it is.

Let me recognize the Ranking Minority Member of our Subcommittee and thank him for his indulgence. I appreciate the fact that he has allowed me extra time. I acknowledge his contributions to the Subcommittee and offer time for an opening statement.

Mr. COBLE. I will combine my opening statement with my questions. Today is one of those days when I had to be at five places simultaneously, so I came a little late, and I may ask questions that were addressed prior to my arrival.

I think one of the most telling statistics to come out of the NTSB report is revealed in the fact that 85 percent of those who drowned in recreational boating accidents were not wearing personal flotation devices. I can't prove what I am about to say, but I think a good argument could be put forward that many of these people would be alive today had they been wearing appropriate flotation devices.

The Chairman touched on the discomfort of some of these devices. One would think that people would not sacrifice safety for personal comfort, but we know they do. They do it every day.

I was going to ask you, Admiral, regarding the time that would be required to give final approval or final endorsement for these devices. Let me ask you this—how long, Admiral, has the Coast Guard been studying this issue of devices, flotation devices?

Admiral ECKER. In one form or another we have been involved in the evolution of those devices a dozen or more years. It is not a new subject. We have never been satisfied with the reliability of that particular type of jacket for public use to the degree that we were willing to put the Coast Guard approval on those kind of devices. So I would have to say for at least 10 or 15 years we have

been involved in some form or another testing and evaluating those devices.

Mr. COBLE. I would like to see this path accelerated, Mr. Chairman, see if we can't come up to a little better speed on that if it can be done.

I want to think aloud for a minute, gentlemen. We have already ploughed this field thoroughly, but we are going to have to do something to resolve these differences of opinion regarding when children and at what age are they required to have devices affixed, whether or not the boat on which they are occupied is underway or tied alongside the dock, whether or not the boat will be 26 feet, 21 feet, 16 feet. Many of these are subject to personal interpretations, but this Committee is going to have to come up with some sort of final answer, it seems to me, and apparently some good will come from this exercise today to that end.

Lieutenant Colonel Clark, let me ask you a question—and you may have touched on this before I came in. I am interested in your expression about the concerns about the cost of the proposed new system to improve the reporting of recreational boating accident information. How would you and other State boating safety administrators propose to improve this reporting process, emphasizing the importance of cost-effectiveness among other things?

Lt. Colonel CLARK. I would go along with the Coast Guard's remarks. I believe that we have a pretty good system in place as far as the boundaries and the concepts, the accident reporting that we have. I think we could become more efficient in our data collection.

One thing you have to remember on the State levels is we are not the only ones collecting the data. In many instances, we rely on local police agencies and other agencies to help us collect it.

I think the educational level that the Coast Guard has started through the grant of the Underwriters Laboratory School, the National Boating Safety School, needs to be driven home, and we need to train trainers within our departments who can in turn train local entities who might be first responders and other entities who are receiving that information that we at a later date have to extrapolate.

Mr. COBLE. Mr. Sciulla, I like your idea about the Coast Guard developing a specialized boating safety course for those convicted of moving violations, boating while intoxicated. Do you know of any particular specificity about this? Do you know of any States that are doing this?

Mr. SCIULLA. I am unaware of any States that are doing that.

Charlie, do you have any comment on that? Are there any States that have a specific boating safety course for drunk boating violators?

Lt. Colonel CLARK. Not unless it would be included in the highway safety course that is put on for drunk boaters. They have one in the automobile section. I do not know of any State that has an exclusive drunk boater course.

Mr. COBLE. I think that might explain it to some of these people who perennially violate the law. Have you thought, Mr. Sciulla, about the idea of imposing these penalties on boatmen who are convicted of violations while intoxicated, penalizing people by citing those violations against their motor vehicle? I can see all

kinds of possible statutory and legislative problems here. But have you considered that?

Mr. SCIULLA. The State of New Jersey within the last month I believe undertook that route. We would like to take a look and see what happens in New Jersey over a period of time.

It is a very controversial issue, as I am sure you can imagine. There are many people who would say that one's record on the water and one's driving record will probably be much the same. I know our marine insurance division checks both highway records and waterway records to make sure—to assess risk.

Mr. COBLE. Gentlemen, I thank you all for being here.

Mr. Chairman, I think this has been a good hearing.

Mr. Duke, good to have my neighbor in the south here.

I have no further questions, Mr. Chairman.

Mr. TAUZIN. Thank you.

[The statement of Mr. Coble follows:]

STATEMENT OF HON. HOWARD COBLE, A U.S. REPRESENTATIVE FROM NORTH CAROLINA, AND RANKING MINORITY MEMBER, SUBCOMMITTEE ON COAST GUARD AND NAVIGATION

Mr. Chairman, I am glad that our Subcommittee is continuing in its efforts to improve recreational boating safety. I think that our June hearing, which studied the National Transportation Safety Board's report on recreation boating safety, helped to focus attention on several ways to improve our Federal and State boating safety laws and regulations.

I was pleased to see that you, Mr. Chairman, and Congressman Fields have both introduced bills which will help to reduce the number of recreational boater fatalities and accidents. I am particularly pleased to see that both bills address children and their use of personal flotation devices (PFDs). I have been informed that 85 percent of individuals who die in boating accidents were not wearing PFDs. Another important provision in each bill requires individuals who commit serious boating law violations to enroll in a Coast Guard boating safety course.

I look forward to hearing from the witnesses representing the Coast Guard and State boating law administrators as well as groups representing boat owners and manufacturers. I will be interested to hear their opinions about the specific provisions in the two bills. Thank you, Mr. Chairman.

Mr. TAUZIN. Mr. Pickett.

Mr. PICKETT. I welcome the witnesses. I do have a statement I would like to submit for the record.

Mr. TAUZIN. Without objection.

[The statement of Mr. Pickett follows:]

STATEMENT OF HON. OWEN PICKETT, A U.S. REPRESENTATIVE FROM VIRGINIA

Mr. Chairman, in the last year for which I have hard data for the Coast Guard's 5th District, which serves my Congressional District, Coast Guard personnel responded to more than 8,500 calls for help and saved more than 400 lives. The 5th District personnel also handled more than 3,100 search-and-rescue cases during this period. All this in an area that includes 156,000 square miles of open ocean, bays, rivers, wetlands and tidal marshes.

The 5th District's program includes research and development of safer boating practices and equipment, and the development and implementation of a coordinated boating safety program.

These silent missions contribute to recreational boating safety in Virginia's busy waterways but, as is evident with the introduction of the boating safety bills now before this Subcommittee, more needs to be done to protect the lives of innocent children from boating accidents.

It is the intent of this legislation to minimize the loss of life and injury of children in the marine environment. This has always been a Coast Guard priority of this Subcommittee. I look forward to hearing from the witnesses here today to get their impressions of the two boating safety bills before the Subcommittee. I would also

like to obtain from the Coast Guard, if such a compilation has been made, a listing of those States that have BWI laws on the books that conform to what is required by H.R. 3168.

Mr. TAUZIN. We received an excellent statement for the record from the Passenger Vessel Association which, by the way, recommended much stronger mandates than contained in either one of our two proposals.

[The statement may be found at end of hearing.]

Mr. PICKETT. Just a couple of questions.

I would like to know—is there a uniform State law that has been recommended to implement the driving or operating a boat while impaired by drugs or alcohol? Is there a uniform State law that has been proposed on that?

Lt. Colonel CLARK. In most States, State laws would follow the field sobriety test, generally a nationwide thing. The Coast Guard itself has a statute that reads that they can enforce it. The States generally adopt their own. My State went into the Highway Act and passed ours there. Many other States have exclusive laws that touch on behavioral standards, implied consents and other aspects. I think we are finding many states are passing different versions of it.

Mr. PICKETT. There is an organization that tries to coordinate activities among the States in enacting uniform laws applicable to situations that are common to all the States. It might be helpful to see if we could get a model code that could be adopted by States that don't already have one.

There was discussion about inflatable life preservers. I notice that the military uses inflatable life preservers fairly extensively. Is there any counterpart to the military life preserver that is available privately?

Admiral ECKER. Military life preservers, you have more control to assure the reliability of the device when it is needed to be used. That same system of checks does not exist with respect to the public as far as the jackets that have been developed so far. The reliability aspect is getting much better and that is why we are moving to get into the business of approving inflatable PFD's for recreational use.

Mr. PICKETT. Thank you.

Mr. TAUZIN. Thank you Mr. Pickett.

Mr. TAUZIN. We have learned a lot as we usually do at these meetings. There are some outstanding questions. I will seriously reconsider the issue of the cap since we heard nothing today to indicate that the controversial provision will do a lot of good for us.

I respect the issue of States utilizing their own methods of financing, and I do want to reconsider that part of the bill.

I would like to continue discussions with you on how best to craft that section on children wearing mandatory life jackets. I think we are close to the right solution, but I want to keep working with you.

Finally, I would deeply appreciate whatever additional help you can give our staff in the issue of crafting the appropriate language on the inflatable life jackets. I think you are going to find extraordinary support for accelerating that review and for getting an im-

proved life jacket out there as fast as we can. After 10 or 12 years, it might be time for us to make a decision here.

Gentlemen, thank you very much. The hearing stands adjourned. [Whereupon, at 11:30 a.m., the Committee was adjourned; and the following was submitted for the record:]

I

103D CONGRESS
1ST SESSION

H. R. 2812

To improve recreational boating safety.

IN THE HOUSE OF REPRESENTATIVES

JULY 30, 1993

Mr. FIELDS of Texas introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To improve recreational boating safety.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Recreational Boating
5 Safety Act of 1993".

6 SEC. 2. INCREASED ENFORCEMENT OF BOATING WHILE IN- 7 TOXICATED LAWS.

8 Not later than one year after enactment of this Act,
9 the Secretary of Transportation, in cooperation with ap-
10 propriate State and local law enforcement officials, shall
11 establish a program to reduce the number of boating acci-

1 dent fatalities by increasing or concentrating enforcement
2 of boating while intoxicated laws in areas where—

3 (1) many boating accidents have occurred; or

4 (2) previous boating accidents involving the use
5 of alcohol have occurred.

6 **SEC. 3. MANDATORY USE OF PERSONAL FLOTATION DE-**
7 **VICES FOR CHILDREN.**

8 Section 4302 of title 46, United States Code, is
9 amended by adding a new subsection to read as follows:

10 “(e) The Secretary shall prescribe regulations requir-
11 ing an individual on a recreational vessel or a personal
12 watercraft who is 12 years of age or younger to wear a
13 personal flotation device, except in an enclosed cabin on
14 a vessel.”.

15 **SEC. 4. PLAN TO APPROVE FULLY INFLATABLE LIFE JACK-**
16 **ETS.**

17 Not later than six months after enactment of this
18 Act, the Secretary of Transportation shall submit to the
19 Committee on Merchant Marine and Fisheries of the
20 House of Representatives and the Committee on Com-
21 merce, Science, and Transportation of the Senate a plan
22 to approve fully inflatable life jackets for use as personal
23 flotation devices under appropriate conditions.

1 **SEC. 5. PLAN TO IMPROVE VESSEL CASUALTY REPORTING.**

2 Not later than one year after enactment of this Act,
3 the Secretary of Transportation shall submit to the Com-
4 mittee on Merchant Marine and Fisheries of the House
5 of Representatives and the Committee on Commerce,
6 Science, and Transportation of the Senate a plan to in-
7 crease reporting of vessel accidents to appropriate State
8 law enforcement officials.

9 **SEC. 6. INCREASED BOATING CASUALTY INFORMATION.**

10 (a) Not later than six months after the date of enact-
11 ment of this Act, the Secretary of Transportation shall
12 revise the regulations issued under section 6102 of title
13 46, United States Code, to provide for a three-level State
14 marine casualty reporting system. The reporting system
15 shall require reporting of comprehensive information for
16 each serious recreational vessel accident, including infor-
17 mation on alcohol use, personal flotation device use, and
18 operator education.

19 (b) Section 6103(a) of title 46, United States Code,
20 is amended by inserting "or 6102" after "6101" each time
21 it appears.

22 **SEC. 7. MANDATORY BOATER EDUCATION FOR SERIOUS**
23 **VIOLATIONS.**

24 (a) Section 2302 of title 46, United States Code, is
25 amended by adding a new subsection to read as follows:

1 “(e) An individual operating a recreational vessel in
2 violation of this section shall complete a boating safety
3 course under terms acceptable to the Secretary.”.

4 (b) Section 4308 of title 46, United States Code, is
5 amended—

6 (1) by designating the existing text as sub-
7 section (a); and

8 (2) by adding a new subsection to read as fol-
9 lows:

10 “(b) An individual operating a recreational vessel in
11 violation of this section shall complete a boating safety
12 course under terms acceptable to the Secretary.”.

13 **SEC. 8. SAFE BOATING EDUCATION PLAN.**

14 Not later than six months after enactment of this
15 Act, the Secretary of Transportation shall submit to the
16 Committee on Merchant Marine and Fisheries of the
17 House of Representatives and the Committee on Com-
18 merce, Science, and Transportation of the Senate a plan
19 to provide mandatory safe boating education and certifi-
20 cation to individuals 12 years of age and younger who op-
21 erate recreational vessels.

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103D CONGRESS
1ST SESSION

H. R. 3168

To amend title 46, United States Code, to establish requirements to ensure safe operation of recreational vessels, and to improve State recreational boating safety programs.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 1993

Mr. TAUZIN (for himself, Mr. LIPINSKI, Mr. ORTIZ, and Mr. MANTON) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To amend title 46, United States Code, to establish requirements to ensure safe operation of recreational vessels, and to improve State recreational boating safety programs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Recreational Boating
5 Safety Improvement Act of 1993".

1 **SEC. 2. PERSONAL FLOTATION DEVICES REQUIRED FOR**
2 **CHILDREN.**

3 (a) PROHIBITION.—Section 4307(a) of title 46, Unit-
4 ed States Code, is amended—

5 (1) in paragraph (2) by striking “or” after the
6 semicolon at the end;

7 (2) in paragraph (3) by striking the period and
8 inserting “; or”; and

9 (3) by adding at the end the following:

10 “(4) operate a recreational vessel under 26 feet
11 in length unless each individual 12 years of age or
12 younger wears a personal flotation device when the
13 individual is on an open deck of the vessel when the
14 vessel is underway.”.

15 (b) STATE AUTHORITY PRESERVED.—Section 4307
16 of title 46, United States Code, is further amended by
17 adding at the end the following:

18 “(c) Subsection (a)(4) shall not be construed to limit
19 the authority of a State to establish requirements relating
20 to the wearing of personal flotation devices on recreational
21 vessels that are more stringent than that subsection.”.

22 **SEC. 3. LIMITATION ON PERCENTAGE AMOUNT OF BOAT-**
23 **ING SAFETY PROGRAM ALLOCATION USED**
24 **FOR PUBLIC ACCESS SITES.**

25 (a) IN GENERAL.—Section 13106(b)(4) of title 46,
26 United States Code, is amended by inserting before the

1 semicolon at the end the following: “, except that not more
2 than 25 percent of the amount allocated to a State for
3 a fiscal year may be used by the State for these purposes”.

4 (b) APPLICATION.—The amendment made by sub-
5 section (a) shall not apply to an amount allocated to a
6 State for a fiscal year before fiscal year 1994.

7 **SEC. 4. ALLOCATION OF FUNDS BASED ON STATE ADOPTI-**
8 **ON OF LAWS REGARDING BOATING WHILE**
9 **INTOXICATED.**

10 Section 13103 of title 46, United States Code, is
11 amended—

12 (1) by redesignating subsections (a), (b), and
13 (c) in order as subsections (b), (c), and (d);

14 (2) by inserting before subsection (b) (as so re-
15 designated) the following new subsection:

16 “(a) Beginning in fiscal year 1998, the Secretary
17 shall allocate \$10,000,000 of the amounts available for al-
18 location and distribution under this chapter for State rec-
19 reational boating safety programs as follows:

20 “(1)(A) One-half shall be allocated among eligi-
21 ble States that prohibit operation of a recreational
22 vessel by an individual who is under the influence of
23 alcohol or drugs and that—

24 “(i) establish a blood alcohol concentration
25 limit of .10 percent or less; or

1 “(ii) provide that acceptable evidence of in-
2 toxication may include personal observation by
3 a law enforcement officer of the effect of intoxi-
4 cants consumed by the individual on the indi-
5 vidual’s manner, disposition, speech, muscular
6 movement, general appearance, or behavior.

7 “(B) The amount allocated to a State under
8 this paragraph for a fiscal year shall be in the same
9 ratio to the total amount allocated under this para-
10 graph for the fiscal year as the number of vessels
11 numbered in that State under a system approved
12 under chapter 123 of this title bears to the total
13 number of vessels numbered under approved systems
14 of all States that receive an allocation under this
15 paragraph for that fiscal year.

16 “(2)(A) One-half shall be allocated among eligi-
17 ble States that prohibit operation of a recreational
18 vessel by an individual who is under the influence of
19 alcohol or drugs and that establish an implied con-
20 sent requirement that specifies that an individual is
21 deemed to have given their consent to evidentiary
22 testing for their blood alcohol concentration or pres-
23 ence of other intoxicating substances.

24 “(B) The amount allocated to a State under
25 this paragraph for a fiscal year shall be in the same

1 ratio to the total amount allocated under this para-
2 graph for the fiscal year as the number of vessels
3 numbered in that State under a system approved
4 under chapter 123 of this title bears to the total
5 number of vessels numbered under approved systems
6 of all States that receive an allocation under this
7 paragraph for the fiscal year.”;

8 (3) in subsection (b) (as so redesignated) in the
9 matter preceding paragraph (1) by inserting “the
10 balance of remaining” after “allocate”; and

11 (4) by adding at the end the following new sub-
12 section:

13 “(e) A State shall not be ineligible for an allocation
14 under subsection (a) because of the adoption by the State
15 of any requirement relating to the operation of a rec-
16 reational vessel while under the influence of alcohol or
17 drugs that is more stringent than the requirements for
18 receiving the allocation.”.

19 **SEC. 5. REQUIRING VIOLATORS TO TAKE RECREATIONAL**
20 **BOATING SAFETY COURSE.**

21 Section 4311 of title 46, United States Code, is
22 amended by adding at the end the following:

23 “(h)(1) A person who willfully operates a recreational
24 vessel in violation of this chapter or a regulation pre-

1 scribed under this chapter may be ordered to complete a
2 qualified recreational boating safety course—

3 “(A) in addition to any other civil penalty that
4 is assessed for the violation, in the case of—

5 “(i) a subsequent violation by the same
6 person; or

7 “(ii) a violation that results in a personal
8 injury; or

9 “(B) in lieu of any other civil penalty that is as-
10 sessed for the violation, in the case of any other vio-
11 lation.

12 “(2) In this subsection, the term ‘qualified rec-
13 reational boating safety course’ means a recreational boat-
14 ing safety course that is approved by the Secretary of
15 Transportation for purposes of this subsection.”.

16 **SEC. 6. TECHNICAL CORRECTIONS.**

17 Section 13108(a)(1) of title 46, United States Code,
18 is amended by—

19 (1) striking “proceeding” and inserting “pre-
20 ceding”; and

21 (2) striking “Secertary” and inserting “Sec-
22 retary”.

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U.S. Department
of Transportation
**United States
Coast Guard**



Commandant
U. S. Coast Guard

2100 Second Street S.W.
Washington, DC 20593-0001
Staff Symbol:
Phone:

DEPARTMENT OF TRANSPORTATION

U. S. COAST GUARD

STATEMENT OF REAR ADMIRAL WILLIAM J. ECKER

ON THE RECREATIONAL BOATING SAFETY IMPROVEMENT ACT OF 1993, AND

THE RECREATIONAL BOATING SAFETY ACT OF 1993

BEFORE THE

SUBCOMMITTEE ON COAST GUARD AND NAVIGATION

COMMITTEE ON MERCHANT MARINE AND FISHERIES

HOUSE OF REPRESENTATIVES

OCTOBER 6, 1993



Rear Admiral William J. Ecker Chief, Office of Navigation Safety and Waterway Services United States Coast Guard



Rear Admiral William J. Ecker assumed duties as Chief, Office of Navigation Safety and Waterway Services, at United States Coast Guard Headquarters, Washington, D.C., in September 1991. He is director of programs for: search and rescue; recreational boating safety; aids to navigation; radio navigation; rules of the road and navigation regulations; vessel traffic services; bridge administration; domestic and polar ice operations; consumer affairs; and the Coast Guard Auxiliary, a civilian volunteer force of about 40,000.

Prior to this assignment, Rear Admiral Ecker served for two and one-half years as Commander, Second Coast Guard District in St. Louis, where he directed Coast Guard operations on more than 6,500 miles of navigable waterways in all or parts of 22 states.

Rear Admiral Ecker graduated from the Coast Guard Academy in 1960 and served in a variety of seagoing and shore assignments during his career. He served on Coast Guard cutters WESTWIND, WINNEBAGO, RESOLUTE, and MELLON. The tour on CGC MELLON included deployment to Vietnam.

Shore assignments included duty as assistant professor in the engineering department at the U.S. Merchant Marine Academy; Chief, Information and Analysis Staff in the Office of Merchant Marine Safety, Washington, D.C.; Commanding Officer of the Marine Inspection Office, New Orleans, LA; Commanding Officer of the Marine Safety Office in Mobile, Ala.; Chief of Operations at the Ninth District in Cleveland, Ohio; Deputy Chief in the Office of Marine Safety, Security and Environmental Protection, Washington, D.C.; and Chief of Staff of the Fifth Coast Guard District, in Portsmouth, Virginia.

Rear Admiral Ecker's decorations include the Legion of Merit, the Meritorious Service Medal (3), the Coast Guard Commendation Medal (4), the Navy Commendation Medal, the Commandant's Letter of Commendation Ribbon (2), the Coast Guard Unit Commendation with "O" Device, the Coast Guard "E" Ribbon (2), the Coast Guard Bicentennial Unit Commendation Ribbon, the Navy Meritorious Unit Commendation, the National Defense Service Medal (2), the U. S. Coast Guard Arctic Service Medal, the Vietnam Service Medal, the Humanitarian Service Medal, the U. S. Coast Guard Special Operations Service Ribbon, the U. S. Coast Guard Sea Service Deployment Ribbon (3), the RVN Gallantry Cross Unit Citation, the RVN Civil Action Citation, the RVN Campaign Medal, the Coast Guard Rifleman Marksman Ribbon and the Coast Guard Pistol Sharpshooter Ribbon.

A native of Brooklyn, N.Y. Rear Admiral Ecker is married and has three children.



DEPARTMENT OF TRANSPORTATION

U. S. COAST GUARD

STATEMENT OF REAR ADMIRAL WILLIAM J. ECKER

ON THE RECREATIONAL BOATING SAFETY IMPROVEMENT ACT OF 1993, AND

THE RECREATIONAL BOATING SAFETY ACT OF 1993

BEFORE THE

SUBCOMMITTEE ON COAST GUARD AND NAVIGATION

COMMITTEE ON MERCHANT MARINE AND FISHERIES

HOUSE OF REPRESENTATIVES

OCTOBER 6, 1993

GOOD MORNING, MR. CHAIRMAN. IT IS MY PLEASURE TO APPEAR BEFORE THIS DISTINGUISHED SUBCOMMITTEE TODAY TO ADDRESS H.R. 3168, "THE RECREATIONAL BOATING SAFETY IMPROVEMENT ACT OF 1993," AND H.R. 2812, "THE RECREATIONAL BOATING SAFETY ACT OF 1993."

H.R. 3168, "THE RECREATIONAL BOATING SAFETY IMPROVEMENT ACT OF 1993"

H.R. 3168 CONTAINS INNOVATIVE STRATEGIES TO ADDRESS SEVERAL IMPORTANT BOATING SAFETY ISSUES, INCLUDING THE NEED TO INCREASE THE USE OF PERSONAL FLOTATION DEVICES (PFD'S), REDUCE ALCOHOL INVOLVEMENT IN RECREATIONAL BOATING, AND CREATE OPPORTUNITIES FOR INCREASED BOATING SAFETY EDUCATION. THE COAST GUARD SUPPORTS THE PROVISIONS OF THE BILL. WE APPRECIATE YOUR CONSIDERATION OF OUR VIEWS WHILE THE BILL WAS BEING DRAFTED, AND THE OPPORTUNITY TO CONTINUE TO WORK WITH THE SUBCOMMITTEE IN THIS ENDEAVOR.

SECTION 2 OF H.R. 3168 WOULD PROHIBIT THE OPERATION OF A RECREATIONAL VESSEL UNDER 26 FEET IN LENGTH UNLESS EACH INDIVIDUAL 12 YEARS OF AGE OR YOUNGER WEARS A PERSONAL FLOTATION DEVICE (PFD) WHEN ON AN OPEN DECK OF THE VESSEL WHILE UNDERWAY. RECENT COAST GUARD REGULATIONS GIVE STATES AUTHORITY TO REQUIRE PFD WEAR BY CHILDREN UNDER CONDITIONS CONSIDERED APPROPRIATE. AGE, MATURITY, SWIMMING ABILITY, SIZE OF BOAT, WEATHER AND WATER CONDITIONS, ACTIVITIES BEING ENGAGED IN, AND PARENTAL RESPONSIBILITY ARE VARIABLES WHICH NEED TO BE FULLY CONSIDERED BY STATE OFFICIALS WHEN ESTABLISHING STATE REQUIREMENTS. WHILE WE PREFER THAT THE STATES REGULATE PFD WEAR BASED UPON ASSESSMENTS OF THESE FACTORS, WE DO NOT OPPOSE THE PROPOSED FEDERALLY LEGISLATED MINIMUM WEAR REQUIREMENTS. THE STATES WOULD BE AUTHORIZED TO ESTABLISH MORE STRINGENT REQUIREMENTS AS THEY DEEM NECESSARY.

SECTION 3 WOULD LIMIT A STATE'S EXPENDITURES FOR PUBLIC ACCESS SITES TO NOT MORE THAN 25 PERCENT OF THAT STATE'S BOATING SAFETY PROGRAM ALLOCATION FOR THE FISCAL YEAR. THIS PROVISION CURRENTLY WOULD AFFECT ONLY A FEW STATES, AND WE DON'T BELIEVE IT WOULD HAVE A NEGATIVE IMPACT ON BOATING SAFETY.

SECTION 4 WOULD, BEGINNING IN FISCAL YEAR 1998, ALLOCATE \$10,000,000 OF THE AMOUNTS AVAILABLE FOR STATE RECREATIONAL BOATING SAFETY PROGRAMS FOR DISTRIBUTION TO STATES ADOPTING BOATING-WHILE-INTOXICATED LAWS. THIS INCENTIVE APPROACH IS LIKELY TO BE FAR MORE EFFECTIVE THAN A PROVISION PENALIZING STATES FOR NONCOMPLIANCE. WE ARE HOPEFUL THAT ITS IMPLEMENTATION WILL LEAD TO ADOPTION OF COMPREHENSIVE "OPERATING UNDER THE INFLUENCE LAWS" BY ALL STATES.

SECTION 5 PROVIDES AUTHORITY TO REQUIRE VIOLATORS OF BOATING SAFETY LAWS TO ATTEND A RECREATIONAL BOATING SAFETY COURSE. WHILE THIS APPROACH HAS BEEN EMPLOYED BY THE COAST GUARD IN THE PAST, AND IS CURRENTLY EMPLOYED BY SOME STATES, WE BELIEVE THAT AUTHORIZING THIS ENFORCEMENT TOOL IN FEDERAL RECREATIONAL BOATING STATUTES WILL SERVE TO HIGHLIGHT AND INSTITUTIONALIZE THIS STRATEGY. THE AVAILABILITY OF QUALIFIED COURSES WOULD NECESSARILY HAVE TO BE TAKEN INTO CONSIDERATION IN EACH CASE. HOWEVER, WE ARE HOPEFUL THAT COORDINATION OF THE EFFORTS OF THE STATES, THE U. S. COAST GUARD AUXILIARY, THE U.S. POWER SQUADRONS, AND OTHERS INVOLVED IN EDUCATING BOATERS WOULD ASSURE AMPLE AND TIMELY COURSE AVAILABILITY.

THE COAST GUARD BELIEVES THAT ENACTMENT OF H.R. 3168 WILL BE A POSITIVE STEP IN PROMOTING INCREASED COOPERATION AND PARTICIPATION IN THE NATIONAL RECREATIONAL BOATING SAFETY PROGRAM, WHICH HAS BEEN SO SUCCESSFUL OVER THE YEARS IN IMPROVING SAFETY AND FOSTERING ENJOYMENT OF BOATING.

NOW LET ME TURN TO MR. FIELDS' BILL, H.R. 2812, THE "RECREATIONAL BOATING SAFETY ACT OF 1993." WE CONCUR WITH SEVERAL SECTIONS OF THE BILL, AND HAVE SOME RESERVATIONS ABOUT OTHERS.

SECTION 2 OF H.R. 2812 WOULD REQUIRE THE ESTABLISHMENT OF A PROGRAM TO REDUCE THE NUMBER OF BOATING ACCIDENT FATALITIES BY INCREASING OR CONCENTRATING ENFORCEMENT OF BOATING-WHILE-INTOXICATED LAWS IN AREAS WHERE MANY BOATING ACCIDENTS HAVE OCCURRED, OR IN AREAS WHERE BOATING ACCIDENTS INVOLVING THE USE OF ALCOHOL HAVE OCCURRED. MANY STATES HAVE PROGRAMS SUCH AS THAT

PROPOSED IN SECTION 2. FOR EXAMPLE, MARYLAND HAS ITS S.W.A.M.P. (SAFER WATERWAYS THROUGH ALCOHOL MONITORING PATROLS) PROGRAM; AND LOUISIANA HAS A STRIKE TEAM, COMPLETE WITH A MOBILE COMMAND UNIT, THAT CAN BE SENT INTO DESIGNATED AREAS FOR CONCENTRATED ENFORCEMENT EFFORTS. HOWEVER, NOT ALL STATES COULD EMPLOY SUFFICIENT RESOURCES FOR THIS TYPE OF EFFORT WITHOUT LEAVING OTHER BOATING AREAS DEVOID OF NECESSARY ENFORCEMENT/RESCUE CAPABILITY.

THE NATIONAL ASSOCIATION OF STATE BOATING LAW ADMINISTRATORS (NASBLA) LAW ENFORCEMENT COMMITTEE IS CURRENTLY CONDUCTING A 3-YEAR STUDY TO DETERMINE THE EFFECTIVENESS OF "TOUGH" BOATING-WHILE-INTOXICATED (BWI) LAWS AND SPECIAL ENFORCEMENT EFFORTS TO REDUCE ALCOHOL-RELATED ACCIDENTS. THE STUDY WILL COVER THE YEARS 1992, 1993, AND 1994, AND 24 STATES HAVE VOLUNTEERED TO COOPERATE IN THE EFFORT. WE BELIEVE THE STUDY WILL PROVIDE GUIDANCE ON WHICH LAWS AND SPECIAL ENFORCEMENT PROGRAMS ARE MOST EFFECTIVE, SO THAT STATES CAN FOCUS THEIR EFFORT ON THOSE PROGRAMS THAT HAVE PROVEN MOST SUCCESSFUL. THIS STUDY, SINCE IT WILL PROVIDE VERIFIED DATA UPON WHICH TO BASE PROGRAM DESIGN, MAY SERVE AS A COST-EFFECTIVE BASIS UPON WHICH A PROGRAM SUCH AS THAT WHICH WOULD BE REQUIRED UNDER SECTION 2, MAY BE DEVELOPED.

ONE BWI ENFORCEMENT APPROACH THAT IS BEING CONSIDERED BY SOME STATES WOULD INCLUDE BWI VIOLATIONS IN AN INDIVIDUAL'S MOTOR VEHICLE DRIVER'S RECORD, BASED UPON REPORTS FROM APPROPRIATE LOCAL, STATE, OR FEDERAL AUTHORITIES. BWI VIOLATIONS COULD COUNT TOWARD DETERMINING POINTS UNDER THE STATE'S DRIVER LICENSING SYSTEM. WE NOTE, HOWEVER, THAT STATE LEGISLATION WOULD BE

REQUIRED TO IMPLEMENT THIS APPROACH. ALSO, USING THESE STATE RECORDS, BWI VIOLATIONS COULD BE TRACKED BY COAST GUARD AUTHORITIES FOR PURPOSES OF ISSUANCE AND RENEWAL OF COAST GUARD LICENSES, CERTIFICATES OF REGISTRY, AND MERCHANT MARINERS' DOCUMENTS. IN MINNESOTA, A COMPARISON WAS DONE TO DETERMINE WHETHER BOATERS CITED FOR BWI ALSO HAVE DRIVING-WHILE-INTOXICATED (DWI) VIOLATIONS ON THEIR DRIVING RECORDS. OF 175 MINNESOTA BWI VIOLATORS IN 1992, 47% HAD AT LEAST ONE PRIOR DWI CONVICTION (27% OF THESE HAD MULTIPLE DWI CONVICTIONS).

SECTION 3 WOULD REQUIRE PERSONS 12 YEARS OF AGE OR YOUNGER TO WEAR A PERSONAL FLOTATION DEVICE, EXCEPT IN AN ENCLOSED CABIN ON A VESSEL. THIS SECTION GOES BEYOND SECTION 2 OF H.R. 3168 IN THAT IT WOULD APPLY TO ALL VESSELS REGARDLESS OF LENGTH, AND IT DOESN'T LIMIT WEAR TO WHEN THE VESSEL IS UNDERWAY. WE BELIEVE THAT SECTION 2 OF H.R. 3168 IS MORE APPROPRIATE AS A FEDERAL MINIMUM REQUIREMENT. AS PREVIOUSLY STATED, WE BELIEVE THAT THE STATES ARE IN THE BEST POSITION TO SET PFD WEAR REQUIREMENTS BASED ON PERCEIVED NEED, CONSIDERING LOCAL CONDITIONS, AND AN ASSESSMENT OF PUBLIC SENTIMENT.

SECTION 4 WOULD REQUIRE SUBMISSION OF A PLAN TO APPROVE FULLY INFLATABLE LIFE JACKETS FOR USE AS PERSONAL FLOTATION DEVICES UNDER APPROPRIATE CONDITIONS. WE FULLY SUPPORT APPROVAL OF INFLATABLE PFD'S FOR RECREATIONAL BOATS. THE COAST GUARD PLANS TO PUBLISH AN ADVANCE NOTICE OF PROPOSED RULEMAKING IN THE NEXT FEW WEEKS, OUTLINING A PLAN TO APPROVE INFLATABLE PFD'S.

SECTION 5 WOULD REQUIRE A PLAN TO INCREASE REPORTING OF VESSEL ACCIDENTS TO APPROPRIATE STATE LAW ENFORCEMENT OFFICIALS.

THE COAST GUARD ESTIMATES THAT LESS THAN 5% OF NON-FATAL BOATING ACCIDENTS ARE REPORTED AS REQUIRED BY LAW AND REGULATION. THE MAJORITY OF RECREATIONAL BOATERS ARE UNINFORMED AND/OR APATHETIC ABOUT ACCIDENT REPORTING REQUIREMENTS. MANY LOCAL LAW ENFORCEMENT PERSONNEL, WHO MAY RECEIVE INITIAL CALLS TO RESPOND IN AN EMERGENCY, MAY ALSO BE UNAWARE OF ACCIDENT REPORTING REQUIREMENTS.

THE COAST GUARD WORKS CLOSELY WITH NASBLA'S BOATING ACCIDENT INVESTIGATION, REPORTING, AND ANALYSIS COMMITTEE (BAIRAC) TO ADDRESS PROBLEMS IDENTIFIED WITH THE CURRENT SYSTEM, INCLUDING THE LACK OF REPORTING BY BOATERS, AND COULD PROVIDE A PLAN RECOMMENDING WAYS TO INCREASE ACCIDENT REPORTING. HOWEVER, IT MUST BE REMEMBERED THAT THIS IS A SELF-REPORTING SYSTEM AND THE OPERATOR/OWNER FREQUENTLY IS RELUCTANT TO REPORT AN ACCIDENT BECAUSE OF A FEAR THAT THE REPORT IS SELF-INCRIMINATING. IF A REPORT IS FILED BY THE OWNER/OPERATOR, IT MAY BE LESS THAN OBJECTIVE AS TO THE CAUSE OF THE ACCIDENT, PARTICULARLY IN STATING WHETHER ALCOHOL WAS INVOLVED.

DESPITE OUR BEST EFFORTS TO IMPROVE THE NUMBER OF REPORTS RECEIVED FROM THE BOATING PUBLIC, THE QUALITY OF INFORMATION WILL STILL BE QUESTIONABLE UNLESS THE ACCIDENT IS INVESTIGATED BY LAW ENFORCEMENT PERSONNEL. WE ARE WORKING WITH THE STATES TO TRY TO ENSURE THAT FATAL, AND POSSIBLY THE MOST SERIOUS NON-FATAL, ACCIDENTS ARE INDEPENDENTLY INVESTIGATED SO THAT BETTER DATA WILL BE AVAILABLE. IT IS LARGELY A QUESTION OF AVAILABLE RESOURCES.

SECTION 6 WOULD REQUIRE A "THREE-LEVEL STATE MARINE CASUALTY REPORTING SYSTEM" FOR REPORTING "COMPREHENSIVE INFORMATION FOR

EACH SERIOUS VESSEL ACCIDENT, INCLUDING INFORMATION ON ALCOHOL USE, PERSONAL FLOTATION DEVICE USE, AND OPERATOR EDUCATION." THIS LANGUAGE APPEARS TO BE BASED ON A RECOMMENDATION OF THE NATIONAL TRANSPORTATION SAFETY BOARD'S RECENT RECREATIONAL BOATING SAFETY STUDY THAT THE COAST GUARD IMPLEMENT A FATAL ACCIDENT REPORTING SYSTEM SIMILAR TO THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION'S (NHTSA) FATAL ACCIDENT REPORTING SYSTEM (FARS).

THE COAST GUARD EXAMINED THE NHTSA FARS SYSTEM SOME TIME AGO AND RECENTLY OBTAINED ADDITIONAL BACKGROUND INFORMATION, WHICH IS NOW BEING REVIEWED. UNDER THE FARS SYSTEM, DATA ON FATAL AUTOMOBILE CRASHES ARE GATHERED FROM EXISTING STATE SOURCE DOCUMENTS AND CODED ON A STANDARD FARS FORM. NHTSA HAS A CONTRACT WITH EACH STATE THAT PROVIDES FOR PAYING THE COSTS OF THE STATE EMPLOYEE FARS ANALYSTS. GIVEN THE LARGE NUMBER OF AUTOMOBILE FATALITIES, THE SYSTEM COSTS SEVERAL MILLION DOLLARS PER YEAR TO OPERATE. WE DON'T BELIEVE THAT IT IS NECESSARY TO IMPLEMENT THIS TYPE OF SYSTEM FOR OUR PURPOSES.

THE BOATING ACCIDENT REPORT (BAR) REQUIRED BY FEDERAL REGULATIONS ALREADY INCLUDES INFORMATION ON THE ACCIDENT, VESSELS INVOLVED, AND PERSONS KILLED OR INJURED. THE FORM ALSO REQUESTS INFORMATION ON ALCOHOL USE, PFD USE, AND OPERATOR EDUCATION. HOWEVER, AS NOTED EARLIER IN OUR COMMENTS ON SECTION 5, THIS IS A SELF-REPORTING SYSTEM AND THE OPERATOR/OWNER MAY NOT INCLUDE ALL OF THAT INFORMATION IN THE BAR, PARTICULARLY REGARDING THE USE OF ALCOHOL.

THE COAST GUARD ALREADY HAS INITIATED SEVERAL ACTIONS TO IMPROVE THE QUALITY OF ACCIDENT DATA, PRIMARILY ADDRESSING BOAT ACCIDENT INVESTIGATIONS, WHICH ARE THE KEY TO COLLECTING MEANINGFUL DATA. ACCIDENT INVESTIGATION TRAINING IS NOW AN INTEGRAL PART OF THE NATIONAL BOATING SAFETY INSTRUCTOR COURSE FOR STATE BOATING PERSONNEL AT THE COAST GUARD RESERVE TRAINING CENTER. IN ADDITION, FOR THE PAST 6 YEARS, STATE BOATING ACCIDENT INVESTIGATION TRAINING SEMINARS HAVE BEEN FUNDED THROUGH THE NONPROFIT GRANT PROGRAM OF THE BOAT SAFETY ACCOUNT. WE ALSO ARE WORKING CLOSELY WITH NASBLA TO INCREASE AND IMPROVE TRAINING, AND TO STREAMLINE REPORTING BY THE STATES TO THE COAST GUARD. WE RECENTLY APPROVED A NONPROFIT GRANT TO THE COUNCIL OF STATE GOVERNMENTS TO CONDUCT A FEASIBILITY STUDY AND PILOT DEMONSTRATION PROJECT FOR A BOATING ACCIDENT ELECTRONIC DATA TRANSFER SYSTEM. THIS EFFORT WILL DETERMINE THE MOST MEANINGFUL DATA ELEMENTS AS WELL AS CONSIDER TECHNOLOGICAL MEANS OF DATA TRANSFER. IN ADDITION, WE HAVE INITIATED AN AMBITIOUS PROGRAM TO OBTAIN BOATING ACCIDENT DATA FROM INSURANCE COMPANIES.

SECTION 7 WOULD REQUIRE MANDATORY BOATER EDUCATION FOR SERIOUS VIOLATIONS. WHILE WE CONCUR WITH THE INTENT OF THIS SECTION, WE DO NOT CONCUR WITH THE MANDATORY REQUIREMENT. SECTION 5 OF H.R. 3168 IS PREFERABLE IN THAT IT MAKES THIS TOOL AVAILABLE FOR DISCRETIONARY USE. EDUCATION CLASSES ARE NOT ALWAYS AVAILABLE ON A TIMELY BASIS. MOST BOATING EDUCATION COURSES TAUGHT BY THE COAST GUARD AUXILIARY, U.S. POWER SQUADRONS, AND THE STATES (WHICH WOULD BE THE ONES "APPROVED BY THE SECRETARY") ARE CONDUCTED PRIMARILY DURING THE WINTER AND

EARLY SPRING MONTHS, NOT DURING THE BOATING SEASON. DURING THE BOATING SEASON, STATE LAW ENFORCEMENT PERSONNEL AND VOLUNTEER INSTRUCTORS ARE ON THE WATER, NOT IN CLASSROOMS. THEREFORE, DURING CERTAIN TIMES OF THE YEAR, CASES WOULD HAVE TO REMAIN OPEN FOR AN UNACCEPTABLY LONG PERIOD OF TIME UNTIL AN INDIVIDUAL COULD HAVE THE OPPORTUNITY TO ATTEND THE MANDATORY COURSE. IF SECTION 7 WERE ENACTED AS PROPOSED, IT WOULD PRESENT A SIGNIFICANT ADDITIONAL BURDEN TO THE COAST GUARD'S CIVIL PENALTY PROGRAM. WE WOULD HAVE TO MAINTAIN OPEN DOCKETS AND PROVIDE ONGOING SUPERVISION FOR AN UNACCEPTABLE LENGTH OF TIME.

SECTION 8 WOULD REQUIRE DEVELOPMENT OF A PLAN TO PROVIDE MANDATORY SAFE BOATING EDUCATION AND CERTIFICATION TO INDIVIDUALS 12 YEARS OF AGE AND YOUNGER WHO OPERATE RECREATIONAL VESSELS. OUR IMMEDIATE REACTION IS THAT CHILDREN 12 YEARS OF AGE OR UNDER SHOULD NOT BE OPERATING A BOAT AT ALL UNLESS UNDER THE DIRECT SUPERVISION OF AN ADULT. SEVERAL STATES HAVE LAWS THAT RESTRICT THE OPERATION OF VESSELS BY CHILDREN UNLESS SUPERVISED.

THE LACK OF STATE AND LOCAL RESOURCES HAS BEEN A MAJOR IMPEDIMENT TO IMPLEMENTATION OF A VOLUNTARY SAFE BOATING EDUCATION PROGRAM FOR YOUNG BOAT OPERATORS. IMPLEMENTATION OF A MANDATORY PROGRAM WOULD BE EVEN MORE DIFFICULT. IT WOULD SEEM THAT THIS IS A MATTER THAT CAN BEST BE MANAGED AT THE STATE LEVEL, AND WILL DEPEND UPON A PARTICULAR STATE'S AVAILABLE RESOURCES. WE OBJECT TO A FEDERALLY OPERATED MANDATORY EDUCATION PROGRAM.

WE LOOK FORWARD TO ENACTMENT OF THE MOST COMPREHENSIVE AND BENEFICIAL BOATING SAFETY BILL POSSIBLE CONSIDERING THE MANY VALUABLE IDEAS PROPOSED BY THE COMMITTEE MEMBERS.

MR. CHAIRMAN, I WILL BE HAPPY TO RESPOND TO ANY QUESTIONS YOU
OR OTHER MEMBERS OF THE SUBCOMMITTEE MIGHT HAVE. .

Statement of
NATIONAL ASSOCIATION OF
STATE BOATING LAW ADMINISTRATORS

before the
COAST GUARD AND NAVIGATION
SUBCOMMITTEE
U.S. HOUSE OF REPRESENTATIVES

RE: RECREATIONAL BOATING SAFETY ACT OF 1993

Presented by
LT. COL. CHARLIE CLARK
BOATING LAW ADMINISTRATOR
LOUISIANA

PRESIDENT, NATIONAL ASSOCIATION OF
STATE BOATING LAW ADMINISTRATORS

Mr. Chairman and members of the subcommittee:

I am Lieutenant Colonel Charlie Clark, Boating Law Administrator for the State of Louisiana, and I serve as President of the National Association of State Boating Law Administrators.

The National Association of State Boating Law Administrators is a professional association consisting of State, Commonwealth and Provincial officials having responsibility for administering state boating laws and managing a diversity of programs to insure safe boating on the waterways of our individual states.

Our Association is pleased to appear before your subcommittee to comment on HR 2812, "Recreational Boating Safety Act of 1993."

SECTION 1. SHORT TITLE. "Recreational Boating Safety Act of 1993."

Our Association, meeting at its 34th Annual Conference in Hartford, Connecticut on September 27-29, 1993, to study methods to improve recreational boating safety, looked at this and the Chairman's bill. Our Association feels the Chairman's title would better outline all of our efforts, and would more accurately reflect the theme of our annual conference, i.e., "Making a Difference in Boating Safety."

SECTION 2. INCREASED ENFORCEMENT OF BOATING WHILE INTOXICATED LAWS.

Our Association feels the Chairman's bill better addresses the problem, thereby giving more direction to the states and providing financial support as an incentive and, most importantly, does not withhold funds from the states unable to comply with this federal requirement within this time frame.

SECTION 3. MANDATORY USE OF PERSONAL FLotation DEVICES FOR CHILDREN.

This section of the bill closely coincides with the section in the Chairman's bill. However, the Chairman's bill is somewhat more precise regarding when the Personal Flotation Device is to be worn, and also addresses the preemption problem presently incurred by the states on this issue.

SECTION 4. PLAN TO APPROVE FULLY INFLATABLE LIFE JACKETS.

Our Association concurs. However, we suggest a dialogue be developed between the subcommittee and the Coast Guard to insure that adequate time is allowed for compliance. Our Association recently adopted a resolution that urged the Coast Guard to essentially proceed along the same path as this section of the proposed law.

SECTION 5. PLAN TO IMPROVE VESSEL CASUALTY REPORTING.

Our Association concurs.

SECTION 6. INCREASED BOATING CASUALTY INFORMATION.

Our Association cannot comment on this section until it has thoroughly reviewed the three-tier system referenced in the bill. However, Mr. Chairman, the Association does concur that more information is needed regarding boating accident causes to accurately determine future program needs. Our Association recommends that the subcommittee ascertain costs to implement this requirement and take the necessary step to insure adequate funding to compensate for the additional manpower and other costs associated with this program.

SECTION 7. MANDATORY BOATER EDUCATION FOR SERIOUS VIOLATIONS.

Our Association strongly supports this requirement.

SECTION 8. SAFE BOATING EDUCATION PLAN.

If this additional responsibility will be carried out by the Coast Guard using Coast Guard personnel, our Association would have no recommendation. However, if it is being contemplated that the states will be directed to carry out this requirement, our Association could not support this mandate without adequate, additional federal funding.

Our Association is deeply concerned over the safety of all who use our nation's waterways. However, we must keep in mind that additional requirements demand additional funding. To adequately address this issue, we would highly recommend that the Coast Guard prepare a cost analysis of the additional responsibilities addressed in this bill and that the Congress provide additional funding to allow implementation at the state level. Our Association would welcome the opportunity to work with the Coast Guard on this study.

Mr. Chairman, in our Association's previous testimony before your subcommittee on this bill, our written correspondence, phone calls and visits to your Staff, we have urged permanent appropriations for the Boat Safety Account of the Aquatic Resources Trust Fund (Wallop - Breaux). Now that we no longer see any increase in additional fuel tax revenue into this Trust Fund, permanent appropriations becomes even more important.

We continue to think it is important to give the States continuity to enhance long-range planning for the purpose of implementing our program expansions as listed in our "Boating Safety Dollars at Work" publication, the recommendations listed in the National Transportation Safety Board's safety study on "Recreational Boating Safety," and the additional mandates that are included in the two bills now being discussed by this subcommittee. We feel it is imperative that the Boat Safety Account be afforded permanent appropriation, the same as the Sport Fish Restoration Account. This

Statement of

**NATIONAL ASSOCIATION OF
STATE BOATING LAW ADMINISTRATORS**

before the

**COAST GUARD AND NAVIGATION
SUBCOMMITTEE
U.S. HOUSE OF REPRESENTATIVES**

RE: RECREATIONAL BOATING SAFETY IMPROVEMENT ACT OF 1993

Presented by

**LT. COL. CHARLIE CLARK
BOATING LAW ADMINISTRATOR
LOUISIANA**

**PRESIDENT, NATIONAL ASSOCIATION OF
STATE BOATING LAW ADMINISTRATORS**

Mr. Chairman and members of the subcommittee:

I am Lieutenant Colonel Charlie Clark, Boating Law Administrator for the State of Louisiana and I serve as President of the National Association of State Boating Law Administrators.

The National Association of State Boating Law Administrators is a professional association consisting of State, Commonwealth and Provincial officials having responsibility for administering state boating laws and managing a diversity of programs to insure safe boating on the waterways of our individual states.

Our Association is pleased to appear before your subcommittee to comment on HR 3168, the "Recreational Boating Safety Improvement Act of 1993."

I, along with James French who was President of our Association at the time, appeared before your subcommittee at a hearing on June 24, 1993, and gave an in-depth response to the National Transportation Safety Board Study.

Following this hearing we have responded to your discussion draft of what has now become HR 3168, the "Recreational Boating Safety Improvement Act of 1993." So in my remarks today, I will be brief in citing each section of the bill with our Association's position.

SECTION 1. SHORT TITLE. "Recreational Boating Safety Improvement Act of 1993."

Our Association concurs.

At our annual conference held last week in Hartford, Connecticut, our membership noted that 1992 was the safest year on record in recreational boating. However, our membership strongly resists the idea of resting on our success. We greatly appreciate Congress' concern for the continued loss of life and the many opportunities to make improvements in the safety of our nation's waters.

SECTION 2. PERSONAL FLOTATION DEVICES REQUIRED FOR CHILDREN.

Our Association concurs and offers resolutions passed at our recent conference as evidence of our serious concerns on the issue of personal flotation device usage.

SECTION 3. LIMITATION ON PERCENTAGE AMOUNT OF BOATING SAFETY PROGRAM ALLOCATION USED FOR PUBLIC ACCESS SITES.

Our Association concurs.

However, you can understand that the four States in question that are using in excess of 25% of these funds, share strong reservations about this Cap. Our Association continues to view with concern the placing of a Cap on any of the eight categories.

SECTION 4. ALLOCATION OF FUNDS BASED ON STATE ADOPTION OF LAWS REGARDING BOATING WHILE INTOXICATED.

Even though some states presently would not meet the criteria necessary to take advantage of the funding, we applaud your incentive approach to gain state compliance, thereby rewarding those states who are in compliance without reducing funding to those states presently unable to comply with this federal requirement.

SECTION 5. REQUIRING VIOLATORS TO TAKE RECREATIONAL BOATING SAFETY COURSE.

Our Association strongly supports the proposal.

Mr. Chairman, in our Association's previous testimony before your subcommittee on this bill, and in our written correspondence, phone calls and visits to your Staff, we have urged permanent appropriations for the Boat Safety Account of the Aquatic Resources Trust Fund (Wallop-Breaux). Now that we no longer see any increase in additional fuel tax revenue into this Trust Fund, permanent appropriations become even more important.

We continue to think it is important to give the States continuity to enhance long-range planning for the purpose of implementing our program expansions as listed in our "Boating Safety Dollars at Work" publication, the recommendations listed in the National Transportation Safety Board's safety study on "Recreational Boating Safety," and the additional mandates that are included in the two bills now being discussed by this subcommittee. We feel it is imperative that the Boat Safety Account be afforded permanent appropriation, the same as the Sport Fish Restoration Account. This would seem logical since both accounts are funded from the Aquatic Resources Trust Fund (Wallop-Breaux) which is comprised from FEDERAL tax dollars boaters pay on their marine fuel. Returning these trust funds to the States, in our opinion, would be in keeping with the user fee concept (i.e.) "USER PAYS - USER BENEFITS."

Our Association requests the assistance of this subcommittee to help find a solution to this funding issue that is so important to the success of our national boating safety efforts.

NATIONAL ASSOCIATION OF STATE BOATING LAW ADMINISTRATORS

RESOLUTION 93-15

MANDATORY PFD WEARING ON BOATS LESS THAN 16 FEET

- WHEREAS, the National Transportation Safety Board has issued its 1993 Study on Recreational Boating Safety and made recommendations that highlight the need for mandatory wearing of personal flotation devices (PFDs) for children 12 years of age and under; and
- WHEREAS, this association has previously endorsed the concept of mandatory PFDs for children 12 years of age and under; and
- WHEREAS, U.S. Coast Guard boating accident statistics on boating accidents and fatalities indicate that 85 percent of all boating deaths could be prevented if all persons were wearing a PFD; and
- WHEREAS, boats less than 16 feet in length are involved in the majority of boating accidents resulting from capsizings, sinkings and falls overboard; and
- WHEREAS, over 40 percent of all boating fatalities could be prevented by requiring the wearing of PFDs on boats less than 16 feet in length; and
- WHEREAS, it will take national leadership to set a standard for boating safety and provide uniformity in PFD wearing requirements.
- NOW, THEREFORE, BE IT RESOLVED, that the National Association of State Boating Law Administrators, meeting in Hartford, Connecticut this 29th day of September 1993 does hereby request Congress to consider an amendment to the "Recreational Boating Safety Improvement Act of 1993" which would require the wearing of PFDs by all persons on boats less than 16 feet in length, of open construction, and all canoes and kayaks, while underway; and
- BE IT FURTHER RESOLVED, that this association does hereby reaffirm its support of federal legislation requiring PFD wearing by children 12 years of age and under; and
- BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to the Honorable Billy Tauzin, Chairman of the Subcommittee on Coast Guard and Navigation, Committee on Merchant Marine and Fisheries, U.S. House of Representatives, for his consideration and appropriate legislative action.

September 29, 1993


Jim French, President

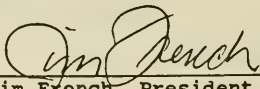
NATIONAL ASSOCIATION OF STATE BOATING LAW ADMINISTRATORS

RESOLUTION 93-16

APPROVAL OF INFLATABLE PFDs

- WHEREAS,** the National Transportation Safety Board has issued its 1993 Study on Recreational Boating Safety and brought new attention to the issue of wearing of PFDs; and
- WHEREAS,** this association is always advocating that persons should wear a PFD, and has watched with great interest studies on the reliability of fully inflatable PFDs as an alternative to conventional PFDs; and
- WHEREAS,** recent studies by BOAT U.S. have provided a consumer test of inflatable PFDs and demonstrated that these devices can be counted on to perform as an adequate lifesaving device; and
- WHEREAS,** inflatable PFDs have been approved for recreational use in European countries for many years and NASBLA has previously endorsed development of inflatable PFDs in the United States by resolution in 1988; and
- WHEREAS,** the comfort and wearability of inflatable PFDs will encourage more persons to wear and use the devices and thus save lives; and
- WHEREAS,** initiatives to require the wearing of PFDs by all persons in boats less than 16 feet in length will be more accepted if they are accompanied by the approval of inflatable PFDs for use in recreational boats in the United States.
- NOW, THEREFORE, BE IT RESOLVED,** that the National Association of State Boating Law Administrators, meeting in Hartford, Connecticut, this 29th day of September 1993, does hereby request Congress to consider an amendment to the "Recreational Boating Safety Improvement Act of 1993" which would direct the U.S. Coast Guard to develop a plan for approval of inflatable PFDs and to submit that plan to Congress within 6 months of passage, as proposed in H.R. 2812; and
- BE IT FURTHER RESOLVED,** that a copy of this resolution be forwarded to the Honorable Representative Billy Tauzin, Chairman of the Subcommittee on Coast Guard and Navigation, Committee on Merchant Marine and Fisheries, U.S. House of Representatives, for his consideration and appropriate legislative action.

September 29, 1993



Jim French, President

Statement of

MICHAEL SCIULLA, VICE PRESIDENT

**BOAT OWNERS ASSOCIATION of THE UNITED STATES
BOAT/U.S.**

Washington National Headquarters
880 South Pickett Street, Alexandria, Virginia

Before the

SUBCOMMITTEE ON COAST GUARD & NAVIGATION

of the

U.S. HOUSE OF REPRESENTATIVES

Re: H.R. 3168, The Recreational Boating Safety Improvement Act of 1993
H.R. 2812, The Recreational Boating Safety Act of 1993

October 6, 1993

Mr. Chairman and Members of the Subcommittee:

I am Michael Sciulla, Vice President of Boat Owners Association of The United States. With more than 475,000 members from all 50 states, BOAT/U.S. is the nation's largest organization of recreational boat owners in the country. I appreciate the opportunity to appear before you today as the subcommittee considers your bill, H.R. 3168, The Recreational Boating Safety Improvement Act of 1993, as well as H.R. 2812, The Recreational Boating Safety Act of 1993, which has been introduced by Congressman Fields, the subcommittee's ranking minority member.

Mr. Chairman, we are well aware of the many issues competing for your attention and before I launch into the specifics of my testimony, I would like you to know that all of us in the boating community appreciate the time and effort that you and your staff have put into the crafting of H.R. 3168. I would, at this time, like to review this bill section by section.

Section 2: Personal Flotation Devices Required For Children

This section would require that any individual age 12 or younger wear a life jacket when on the open deck of a vessel, which is less than 26 feet in length, while the vessel is underway.

As you know, we testified in favor of this concept during your hearing last June 24. Following the introduction of Congressman Fields' bill, H.R. 2812, which contains a similar provision, we published an article in BOAT/U.S. Reports strongly endorsing the concept. I would like to have this article included in the record.

We have received some negative feedback from our members complaining that 10 to 12 year-olds will find it very uncomfortable to be required to wear a bulky life jacket, especially in humid 95 degree weather. One member who owns a 26-ft. sloop wrote us saying, "My boat's cockpit is deep and surrounded by lifelines. Our waters are uncrowded and my children are good swimmers. Just because a couple of drunks ran into a dock and some fool overloaded a 12-ft. skiff, why should our children be forced into a position where they would rather stay at home than sail? They are safer without life jackets under the conditions in which we sail than they are in the car driving to the marina."

Another member who has been an active instructor in the U.S. Power Squadrons for the past 25 years questioned why the age of 12 was chosen, contending that many 12 year-olds are better and stronger swimmers than their 50 year-old dad's. "Most life jackets are bulky, hot, cumbersome, unflattering and bothersome. If this were not true more people would wear them. Requiring people to wear these devices at a young age will only discourage their use at a later age," he wrote.

I suspect that these comments are shared by a large number of recreational boaters. In fact, in a recent random sample survey conducted of BOAT/U.S. members in Florida we asked the following question: "Currently, Florida requires children age 6 or under to wear a life jacket on boats 26 ft. and less. Do you think it should be changed to age 12 and under?"

The response we received was 41% in favor and 54% opposed.

In reviewing this issue further, we have come upon some statistics developed by Balistreri Consulting, Inc. that we would like to share with the subcommittee.

Year	Total Fatalities	Involving Children 12 and Younger	Percentage of Total Fatalities
1988	946	28	3.0%
1989	896	19	2.1%
1990	865	15	1.7%
1991	924	29	3.1%
1992	816	30	3.7%

These statistics indicate that over a five-year period, some 2.7% of the total number of recreational boating fatalities involved children under 12 years of age.

Mr. Chairman, since this is a potentially controversial issue involving the public and since there does not appear to be overwhelming scientific evidence for choosing a particular age, we suggest that a common sense approach might prove best.

Our concern is that helpless infants and young children be protected while aboard a recreational vessel. Therefore, we recommend that a federal minimum standard be enacted under which all children age 6 and under be required to wear a Coast Guard-approved personal flotation device. This approach would follow the lead of two of the nation's largest boating states, California and Florida, which have adopted this standard. Furthermore, since there will always be a potential risk for young children, even when a boat is at anchor, we recommend that children age 6 and under be required to wear a device at all times, on any size boat, except when in an enclosed cabin aboard a vessel.

In addition, in order to ensure that the states have the maximum flexibility to promote boating safety and respond to local problems, we would support Section 2(c) of H.R. 3168 which would allow the states to establish requirements more stringent than those set by federal law.

Finally, we would like to renew our objection to the penalties allowed under Section 4311(a) of title 46 which provides for a fine of up to \$5,000 for a violation of the law. This is an excessive amount and we urge you to establish a fine which more closely resembles that given to violators of our seat belt laws.

Section 3: Limit on Boating Safety Account Funds Used for Public Access

This section would put a 25% cap on the amount of federal boating safety account funds used for public access. During FY 1992, only 5.9% of the total federal funds given to the states was used for public access projects and only four states exceeded the proposed 25% cap. Of these four states, California, Iowa and Minnesota spent on law enforcement and education, 41.4%, 49.1% and 36.1% of their total federal funds.

As we are unaware of any compelling evidence that a significant number of states are abusing the process, we believe that the states should be allowed to retain sufficient flexibility to manage their boating safety programs.

Section 4: Boating While Intoxicated

We support the provisions contained in this section and commend you for devising a procedure to use the \$10 million available in FY 1998 to encourage the states to enact tough drunk boating laws.

Section 5: Require Violators to Take a Boating Safety Course

While we support the provisions contained in this section, we believe that it can be improved. For example, a "qualified recreational boating safety course" might include an "equivalency exam." We do not believe violators should be allowed to take an equivalency exam. Second, we recommend that the Coast Guard be encouraged to develop a specialized boating safety course for those convicted of boating while intoxicated. This should be similar to the courses required of those convicted of driving while intoxicated.

Mr. Chairman, I would also like to take this opportunity to comment on Congressman Fields' bill, H.R. 2812. It contains a number of important provisions which we believe would improve the federal government's boating safety effort.

We support Section 2 which would require the Coast Guard to establish a program to reduce the number of boating fatalities by increasing or concentrating the enforcement of boating while intoxicated laws in those areas where they occur.

We also strongly support Section 4 which would require the Coast Guard to submit a plan to Congress to approve fully inflatable life jackets within 6 months of enactment. Furthermore, we believe that America's technology should be harnessed to develop flotation devices which will be readily worn by the boating public and be even safer than the products on the market today.

The Coast Guard should be directed to spend some of the \$30 million it receives annually from boaters via the Aquatic Resources (Wallop/Breaux) Trust Fund on internal research and development or in grants to the industry to encourage the development of the next generation of inflatable life jackets.

BOAT/U.S. also supports the provisions contained in Sections 6 and 7 of Congressman Field's bill to improve the reporting of boat casualties. The existing boating accident database is woefully inadequate, seriously out of touch with reality and in dire need of improvement.

For example, the Coast Guard reported that there were a total of 6,048 boating accidents in 1992. But, just last week we learned the results of an on-going study of marine insurance claims files being conducted by the Marine Index Bureau Foundation. Their data indicates that there were 118,265 accidents reported to the marine insurance industry in 1992. And, this figure includes only those boats which are insured - less than 25% of the boats on our waterways.

Finally, we believe that serious consideration must be given by Congress to provide an incentive to the states to phase-in mandatory boating education for all boaters. Maryland, Connecticut, Vermont and Delaware have enacted such laws and we believe that many more would do so if encouraged by the federal government.

Mr. Chairman, I appreciate the opportunity to testify on this legislation and I am more than happy to respond to any questions you might have.

NATIONAL MARINE

MANUFACTURERS ASSOCIATION

Mr. Chairman and Members of the Subcommittee:

My name is Jeff Napier. I am president of the National Marine Manufacturers Association (NMMA) - a national trade association representing over 1600 recreational boat, engine and related equipment manufacturers. Our members are located in every state in the country and the membership includes many state marine trades associations.

The NMMA has a long record of supporting federal, state, and local efforts to improve boating safety. The NMMA is pleased that through product development, crossfeeding information, and public education campaigns the national average for boating fatalities again dropped to a record low of 4.6 per 100,000 boats in 1992. However, the NMMA believes that these statistics are still too high and have recently revised the NMMA Boating Safety Program to assist in improving state programs. The NMMA has provided state boating law administrators, state marine trades organizations and hundreds of state legislators with the following model legislation: mandatory boating safety education for youth; boating while intoxicated; mandatory personal flotation device wearage by children; personal watercraft use and engine noise reduction. Additionally, we actively promote the NMMA Boat Smart Kids program and the "designated driver" national campaign. (Please see attached article that appeared in the National State Boating Law Administrators publication - Marine Manufacturers Unveil Safety Program.)

On behalf of NMMA, I commend you, Mr. Chairman and Mr. Fields for the time and effort you and your staffs have devoted to reviewing boating safety issues and I appreciate the opportunity to provide comments on H.R. 3168, The Recreational Boating Safety Improvement Act of 1993, and HR. 2812, The Recreational Boating Safety Act of 1993. In this regard I offer the following:

1. NMMA supports provisions in both bills that would require children to wear personal flotation devices. The NMMA has developed a state model law on the issue. Currently, there are approximately twenty states that either have or are considering this type of legislation. Historically, as you know, the controversy associated with the model legislation has focused on the age requirement. As we have experienced at the state level, this issue can be debated at length, and it is our view that age requirements should be consistent from state to state, and at the state and federal levels. Additionally, we believe that a new federal minimum age standard should not preempt those states that have such a law today. We also agree with the provision in HR 3168 which preserves the states right to establish a more stringent age requirement.

2. The NMMA does not favor Section 3 of H.R. 3168 which would establish a limit on Boating Safety Account funds used for public access. It is our view that the 25% cap on the amount of federal boating safety account funds used for public access unfairly restricts the state's flexibility to manage and promote both their boating safety and access programs. Since boating access has been shown to be an important part of many state boating safety programs NMMA respectfully urges the Subcommittee to omit this provision.

3. NMMA wholly supports the allocation of funds to states that pass tough boating while intoxicated laws. Over the years we have experienced strong resistance by a few state legislators to enact tougher drunk boating laws. NMMA endorses the use of financial incentives as a positive step towards enacting boating while intoxicated laws in every state!



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4. NMMA supports Section 5 of H.R. 3168 and Section 7 of H.R. 2812. We believe legislation to improve boating safety would be strengthened by requiring mandatory education for youth. While only five states currently have mandatory education for youth, and a number of states have linked education with boating while intoxicated laws. We believe that mandatory youth education should be distinguished separately from a boating violator safety course.

5. NMMA and our Personal Flotation Device Manufacturers Association, support Section 4 of H.R. 2812 which requires the Coast Guard to identify ways to provide regulatory approval for fully inflatable life jackets. The sooner this is done the better.

6. NMMA agrees with the need for an updated, accurate, and streamlined method for accident reporting within the Coast Guard. NMMA supports Sections 6 & 8 of H.R. 2812, however we are concerned that the Coast Guard will be unable to perform the function of creating a three-level state marine casualty reporting system due to a lack of funding and administrative staff.

Mr. Chairman, as you can see, with the exception of the cap on access funds, we support the provisions contained in H.R. 3168 and H.R. 2812. We look forward to working with the Subcommittee to address broader questions concerning federal law preempting existing state boating safety laws, the appropriation of funds to implement a federal boating safety law, and the availability of agency staff to handle these new responsibilities.

Thank you for the opportunity to comment on these two bills.

REPORTS

BOAT/U.S.

 Volume XXVIII
 September 1993

Tragedies Spur Federal Legislation

From Florida to Arkansas and points west, the spring and summer of 1993 may be remembered as an especially tragic time for recreational boating as a series of fatal accidents captured the national headlines.

These accidents have since fueled the debate over whether or not enough is being done to protect boaters from unsafe boaters—as well as from themselves.

Two of these tragedies were particularly noteworthy. The first occurred in March when two Cleveland Indians baseball players died as their boat crashed into a dock at high speed on a small lake at night. The vessel's skipper was intoxicated.

The second occurred in July as seven members of an Arkansas family of nine perished in a 12-foot boat designed to carry three people. Included among the victims were five

children ranging in age from 18 months to ten years of age.

The accident occurred in broad daylight on a calm river relatively close to shore. No one was wearing a life jacket. Reportedly, only the father knew how to swim.

So much attention has been generated by these and other events that a committee of the U.S. Congress held a high-profile public hearing and federal legislation has been introduced to prod the states to take steps to improve boating safety.

The hearing was prompted by a report from the National Transportation Safety Board which recommended that children be required to wear life jackets, that a dozen states without tough drunk boating laws enact such legislation, and that the states consider some type of mandatory education or operator license.

In fact, federal involvement

seems increasingly likely even as four states including Maryland, Vermont, Connecticut, and Delaware have enacted landmark laws in recent years phasing in mandatory education course requirements for boaters. Similar legislation failed in Florida this spring due to opposition from national marine industry lobbyists.

Although boating fatalities are at an all-time low, BOAT/U.S. recently testified before Congress that there was broad support within the boating public for action and that phasing-in mandatory education courses was the way to start.

As this issue of *BOAT/U.S. Reports* goes to print, boating safety legislation has been introduced in Congress by Rep. Jack Fields (R-TX), the senior Republican on the House Merchant Marine Committee.

The legislation, which was drafted with the support of BOAT/U.S., would require chil-

dren 12 years of age or younger to wear a lifejacket, except while in a cabin, and directs the Coast Guard to submit a plan for approving fully inflatable lifejackets within six months. It forces serious violators of boating laws to take a boating safety course and requires the Coast Guard to submit a plan to provide mandatory boating education and certification for all children age 13 or younger who operate a boat.

"Boating safety certification has been stuck at dead center for too long because of industry opposition," said BOAT/U.S. President Richard Schwartz. "This bill is a step in the right direction and those in the industry who oppose it are out of step with the best interests of the boating public," he said.

STATEMENT OF THE STATES ORGANIZATION FOR BOATING ACCESS
TO THE U.S. HOUSE SUBCOMMITTEE ON COAST GUARD AND NAVIGATION
ON H.R. 3168
OCTOBER 6, 1993

The States Organization for Boating Access, a national organization of state officials born of the creation of the Wallop-Breaux Trust Fund to develop, improve and maintain federally assisted recreational boat access, respectfully urges that Section III of the proposed Recreational Boat Safety Improvement Act of 1993 be deleted.

We submit that the proposed 25 per cent cap on public boat access spending of the Boat Safety Account unjustifiably diminishes public boat access as a contributor to recreational boating safety.

The legislative history of the Wallop-Breaux Act will show that Congress recognized boaters' needs for means of safe access and egress from the nation's waterways as an integral part of a comprehensive boating safety program. (See House Merchant Marine and Fisheries Committee Report 98-133 Part I, May 16, 1983, and Report 100-786 Part I, July 26, 1988.)

Significantly, the precursor of the Boat Safety Account, known as the National Recreational Boating Safety and Facilities Improvement Fund (P.L. 96-451) originated as a way of ensuring the use of federal marine fuel tax money equally for boating safety and facilities. That is because there is a strong linkage.

Public boat access enhances safety in many ways: (1) by providing a haven of refuge in inclement weather; (2) by alleviating congestion in the sense that more and better access to different waters disperses the boat population and relieves overcrowding and multiple use conflicts; (3) by providing a logical place to educate boaters about safety, e.g., through signage and Coast Guard Auxiliary Courtesy Motorboat Examinations; (4) by providing a staging area for boating safety law enforcement and search and rescue missions; and (5) by satisfying federal requirements for equal safe access for persons with disabilities. Further, the maintenance of public boat access in good repair is very important to the safety of the users.

The Coast Guard's record of the states' use of their allocation of the Boat Safety Account indicates that states have not abused their discretionary authority in spending on public boat access projects. (See FY '92 Boating Safety Expenditures by Function attached hereto.) Since the inception of the Wallop-Breaux Fund barely a handful of states have made use of the Boat Safety Account for the construction, maintenance or repair of boat ramps. The overwhelming majority have never used their Boat Safety Account allocations for public access projects.

One reason is the pronounced preference by state boating administrators for using the Boat Safety Account for boating safety law enforcement. Another reason is the difficulty of obligating and spending the money on access construction and renovation projects which typically require years to complete, more than the period allowed by the Boat Safety Account.

In the Boat Safety Account, Congress has given the states the discretionary authority to match federal aid 50/50 with state funds for eight different kinds of programs. No caps or limits are placed on spending on any one of these eligible programs, the assumption being that the Coast Guard as fund administrator will exercise overview authority with a view to a truly balanced comprehensive boating safety program. It has been left to the states, however, to prioritize the use of the Boat Safety Account according to their considered judgment of what is in the best interest of the state and its boating citizens. It is a commonly held belief among the constituent supporters of the Wallop-Breaux Fund that matters should be left that way.

Instead of Congress limiting the amount of funds that may be spent on any one eligible program under the Boat Safety Account, we respectfully suggest that the Coast Guard should be encouraged to see that the states spend their allocations in a more balanced way that does not neglect any program seen as vital to the improvement of boating safety.

We appreciate this opportunity to comment on that part of the proposed legislation which is relevant to our role in the boating safety picture.



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Statement of

Mr. Phil Keeter
Executive Director

Marine Retailers Association of America
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before the

Subcommittee on Coast Guard and Navigation
of the
Committee on Merchant Marine and Fisheries

U.S. House of Representatives
Washington, D.C.

Re: H.R. 3168, The Recreational Boating Safety Improvement Act of
1993 and H.R. 2812, The Recreational Boating Safety Act of
1993

October 6, 1993

Statement of Phil Keeter
Executive Director of the
Marine Retailers Association of America
before the
Subcommittee on Coast Guard and Navigation
on H.R. 3168, The Recreational Boating Safety Improvement Act of 1993,
and H.R. 2812, The Recreational Boating Safety Act of 1993

Thank you, Mr. Chairman and good morning.

I am Phil Keeter, Executive Director of the Marine Retailers Association of America. MRAA is the national trade association of 3,500 small businesses which sell and service recreational boats and operate marinas. Our members come from virtually every state in the country; and the 117 regional, state, and local marine trades associations are affiliated with MRAA.

The strength of our organization is that our members maintain frequent contact with recreational boaters after the initial sale. Dealers perform service work and sell accessories, and boat owners store their boats on our properties either in dry storage or docking facilities. Some even use our access ramps. Boaters tell our members what's on their minds; and, because our members are market driven, we strive to satisfy their concerns.

We greatly appreciate this opportunity to present testimony on recreational boating safety and the two bills introduced to address the concerns expressed in the National Transportation Safety Board study on recreational boating safety. We also thank you and Congressman Fields for your leadership in this regard.

As we testified at your Subcommittee hearing on June 24th, MRAA agrees with the intent of the NTSB report that additional work needs to be done to improve upon our excellent safety record. Some of the problem areas and findings identified by the NTSB report are obviously correct. We concur that these problems are exacerbated to some degree by the problems of congestion and alcohol abuse in some parts of our country.

We believe the NTSB report identified issues that have long been addressed by organizations interested in promoting boating safety. MRAA works closely with the U.S. Coast Guard, the Coast Guard Auxiliary, the National Safe Boating Council, Underwriters Laboratories, and the National Boating Safety Advisory Council to ensure safety continues to improve on our waters. The issues of

alcohol abuse, life jacket wear, the lack of reliable information, mandatory operator education and operator licensing have been on the docket for discussion and action for many years.

We commend the NTSB for once again placing these issues before the public. However, we don't want anyone to forget that the recommendations of the NTSB study were released on the heels of the the distribution of the Coast Guard's own benchmark of boating safety, the fatality rate, which shows that our nation's waters have never been more safe. A fatality rate of 4.0 deaths per 100,000 boats reached an all-time low in 1992 and continued a 20 year trend of declining fatalities from a near record high of 20.2 deaths in 1972.

On the positive side, we believe significant progress has been made in boating safety, that boats are being manufactured with safety considerations, there is an increased awareness of safety among boat owners and crew, there is widespread acceptance of life jacket wear by water enthusiasts who enjoy canoeing and kayaking and by children, and the dedication of the thousands of volunteers who teach boating safety classes has benefitted millions of American boaters.

But, we believe more needs to be done and support the intent of both H.R. 2812 and H.R. 3168.

We support strong BWI laws and commend you and Congressman Fields for including appropriate language in Section 2 of H.R. 2812 and Section 4 in H.R. 3168 to encourage adoption of these laws in states that do not presently have BWI laws.

We support children wearing life jackets or PFDs (Personal Flotation Devices). The American Red Cross Survey of Recreational Boating indicated that 91 percent of children under 12 are now wearing PFDs. Many of our members, who operate marinas and see what's going on on the water, also support this figure. However, we ask that you consider changing the threshold in Federal law to 6 years from 12 years and under. Then allow states to develop more stringent laws as local conditions warrant.

MRAA also supports an educated boater. We do not support blanket mandatory education. But, we do support both Section 7 of H.R. 2812 and Section 5 of H.R. 3168 which address the issue of requiring serious violators to take a recreational boating safety course. We have long supported this concept. Our only concern is that the language in bills must include a clear legal definition of a serious violation.

We oppose Section 8 of H.R. 2812 which would require the Secretary of Transportation to develop a plan for a mandatory education certification program within 6 months. We believe this is clearly a state issue and that the Federal government should not be administering a nation-wide boater education program.

H.R. 2812 also calls for a plan to approve fully inflatable life jackets. We believe boaters will wear these devices when they are Coast Guard approved and strongly support the intent of this Section. However, based on discussions with the Coast Guard, we understand a year and a half may be needed for proper research to ensure safe operation of inflatables. We hope a plan submitted under the direction of this Section will allow for sufficient research time by the Coast Guard.

We are strongly opposed to Section 3 of H.R. 3168 which places a cap of 25 per cent of a states allocation from the Wallop-Breaux Trust Fund for public access sites. MRAA supports free and unrestricted access to our nation's waterways. We also believe states must retain the right to manage Wallop-Breaux monies in the best way possible to suit the individual needs of the state. At the present time, only five states are using funds from the Boat Safety Account to fund the construction of boat access ramps. Let's not compromise these states' financial ability to comply with the intent of Wallop-Breaux. We ask that Section 3 be stricken from H.R. 3168.

To conclude, we support the intent of both bills, but ask for consideration of the amendments described earlier. Passage of amended bills, we believe will ensure a continuation of 20 years of improvements in boating safety to levels many of us only imagined a few years ago.

We also strongly urge the Subcommittee to work with the Coast Guard and state governments to strenghten the data gathering process on boating accidents. Without proper reporting of data, we cannot analyze boating accidents and thereby recommend sound public policy.

Thank You.

Statement of the
Passenger Vessel Association
for the

Subcommittee on Coast Guard and Navigation

Regarding

H.R. 3168 and H.R. 2812
Legislation To Improve Recreational Boating Safety

October 6, 1993

Chairman Tauzin, it is with pleasure that the Passenger Vessel Association submits this statement in support of legislation to strengthen and improve the nation's recreational boating safety laws.

We respectfully request that this statement be included in the hearing record on H.R. 3168 and H.R. 2812.

The Passenger Vessel Association (PVA) is the national trade association of the passenger vessel industry. Founded in 1973, PVA today represents more than 500 companies that own, operate and supply U.S.-flag passenger vessels. These include dinner cruise ships, tour and excursion boats, car and passenger ferries, private charter boats, casino gaming vessels, domestic overnight cruise boats and environmental vessels. Member companies of the association operate more than 1,200 vessels ranging in size from 7 to 4,000 passengers, and together carried in excess of 80 million passengers in 1992.

Because we hold the safety of these 80 million people as our highest priority, we feel a keen and vested interest in the behavior of everyone on the water, including recreational boaters. Whether it is a small, outboard-motor craft, a dining yacht or a commercial passenger ferry, everyone who operates a boat is effected by everyone else who shares the waterway. We are not isolated from one another, neither are the passengers entrusted to our care.

Earlier this year, we joined with others in applauding the efforts of the National Transportation Safety Board to identify the most significant safety problems associated with recreational boating. Along with others, we were encouraged that at long last someone had undertaken this overdue study, and we strongly endorsed the resulting recommendations to improve boating safety. As the National Association of State Boating Law Administrators (NASBLA) stated in its testimony before this Subcommittee on June 24, "without this analytical study, future efforts toward improving boating safety would be based on conjecture, conventional wisdom and opinions. This study and its recommendations provide the critical policy positions for national debate, refinements and or adoption."

We further saluted the U.S. Coast Guard, NASBLA, the National Water Safety Congress and others for their commitment to the NTSB effort and willingness to move forward to consider or embrace the NTSB recommendations. Clearly, without this painstaking groundwork, the legislation before us today would not have been introduced.

It also would not have been introduced but for your commitment, Chairman Tauzin, and that of Congressman Fields to the safety of the millions of people who set out each year to enjoy a boating experience - whether it be on a private, recreational vessel or on a commercial passenger vessel of the sort we represent. For the record, we want to acknowledge and thank you for your leadership.

With respect to the bills themselves, we strongly support those provisions that require personal flotation devices for children and encourage stiffer state laws against boating-while-intoxicated (BWI). We want to note for the record, however, that establishing a law against BWI is meaningless without aggressive enforcement. Public education about the dangers of BWI must be increased. The public must be encouraged to report suspect behavior to their local law enforcement authorities, including the Coast Guard. Local authorities must have the ability and will to conduct onboard inspections, and undertake chemical and toxicological testing where operator behavior is questionable. Strict and visible enforcement of state BWI laws not only will remove dangerous operators from the immediate scene, but, over time, will serve as an important deterrent to boating-while-intoxicated.

While we support these provisions, we are disappointed that both H.R. 3168 and H.R. 2812 stop short of fully implementing the recommendations of the NTSB with respect to mandatory boater education and licensing. Each bill requires an individual to take a safe boating course only if caught operating a vessel in violation of the bills. We take this to mean that only individuals operating a vessel while intoxicated (as defined by the legislation), or a vessel which does not boast personal flotation devices for children 12 years or younger, would be impacted. The bills completely ignore the consequences of careless, daredevil boaters who may be perfectly sober or whose vessels are properly equipped.

In our companies we witness the threats to innocent people by such boaters every day. In our testimony before this Subcommittee in June, we noted the experience of the Bridgeport/Port Jefferson Steamboat Company in Connecticut. This ferry company operates two 100-car/1000-passenger ferries between Port Jefferson, New York and Bridgeport, Connecticut, and carries approximately 250,000 vehicles and 700,000 passengers a year.

On Saturday, April 26, 1986, a pleasure boat operating at high speed tried to jump the wake of the ferry "Grand Republic". This occurred in the open waters of Long Island Sound, approximately 1.5 miles from the Port Jefferson "A" buoy. As the speedboat hit the wake it flipped, throwing its three passengers into the Sound. Fortunately, the resulting injuries, while serious, were not permanent. The speedboat was demolished.

Hornblower Dining Yachts in California reports similar stories. In San Diego Harbor, a high speed pleasure craft hit one of Hornblower's vessels when its lone (assumed-to-be intoxicated) occupant fell overboard, sending the boat on a wild, careening spin through the Harbor until it crashed into a break water. On another occasion, a sailboat actually put its bow pulpit through the window of a Hornblower yacht cruising San Francisco Bay after tacking right up to the vessel then failing to veer off quick enough to avert disaster. "We also are constantly besieged by wind surfers and jet skiers who find it amusing to jump our wake or use us as a target," notes Hornblower's Manager of Vessel Operations, John Waggoner.

In our view, wake-jumping, high speed approaches (the waterborne version of the game of "chicken") and other deliberately threatening and dangerous boating actions undertaken by people, intoxicated or not, should be addressed outright. Section 4 of H.R. 3168 directs an allocation of federal funds based on state adoption of laws regarding boating-while-intoxicated. We urge the Congress to adopt comparable financial incentives to encourage states to put in place mandatory boater education programs.

Indeed, it is inconceivable to us that any law worthy of the title "Recreational Boating Safety Improvement Act of 1993" could be adopted without addressing this fundamental need.

We also support eventual implementation of a boater licensing requirement. We wholeheartedly agree with the NTSB view that only through eventual licensing can "those who have been operating boats unsafely be identified, and steps taken to either improve their behavior or effectively withdraw their boating privilege." Moreover, with respect to BWI, there is compelling evidence from the from the National Highway Traffic Safety Administration (NHTSA) that suspension of a driving license if convicted of driving under the influence has helped to deter drunk driving. We believe that the suspension of a boating license would have a similar deterrent effect on drunk boating.

We are aware that this last recommendation has spawned some controversy. We don't know why. In every other circumstance where an individual operates a vehicle on a public thoroughfare - and our waterways are public thoroughfares - that individual is required by law to hold a valid operator's license. This is true of automobiles, motorcycles, vans, buses, trains, and planes. Boats cruising the nation's waterways are no different.

While it is true, as the Coast Guard notes in its June 24 testimony, that boating is "primarily a form of recreation rather than transportation," it is also true -- and more important -- that recreational boaters, merely by being on the water, directly affect the safety of all those around them. On a remote lake where only a sailor or two might be found, the hazard to others may be nonexistent. But on busy waterways - such as Long Island or Puget Sounds -- an operator who fails to obey the rules of the road, either by omission or commission, is a danger not only to himself but to hundreds of innocent bystanders (this is particularly true in the case of those who operate the new, high performance boats that move at extremely high speeds).

We don't believe that either mandatory boater education or a licensing requirement would provoke the public outcry opponents suggest. To the contrary. Our experience tells us the general public, and many in the boating community itself, would welcome operator licensing as a tool toward greater boating safety. Indeed, the Boating Law Administrator of Louisiana, Lt. Col. Charlie Clark, has testified that a 1990 survey of Louisiana boaters showed 81% percent favored mandatory boating education and 68% percent favored operator licensing. While acknowledging the obstacles, Lt. Col Clark vowed to continue his push to win Louisiana state approval of both programs. He predicted marine law enforcement agencies responsible for boating safety programs in other states will press for similar laws.

Opponents of boater education and licensing may also attempt to discredit the proposals as government bureaucracy run amok. As the NTSB points out, however, every state (save Alaska) has today an existing boat titling and registration authority which could be used for the minimal additional record keeping involved. Licensing requirements and educational program information could be included in the standard packet of information available to boat owners at time of registration. Much of the cost of boater education programs could be borne by the individual boat owner, much as the cost of driver education today is borne by those who seek a driver's license. As with many other activities, it's simply the price of admission.

Asking states to begin to implement a program of mandatory boater education and, eventually, operator licensing is not unfair or unreasonable. Congress has the means to encourage this through financial incentives, and ought to seize the moment to do so before more people are injured.



Finally, we agree with the NTSB's view that more comprehensive and accurate information, gathered on an on-going basis, must be developed about recreational boating safety incidents. The NTSB was forced to resort to data by the American Red Cross, not the U.S. Coast Guard or other government agency, to show that an estimated 355,000 persons are injured from recreational boating accidents each year, with more than 40 percent of these injuries requiring medical treatment beyond first aid. Recently, consideration of the Passenger Vessel Safety Act of 1993 was hindered because the Coast Guard lacked adequate information on safety incidents involving recreational vessels that had been, either routinely or occasionally, chartered under bareboat contracts. Information extending beyond fatality reports is urgently needed to give law enforcement agencies and the boating community itself better tools with which to construct improved boating safety rules and programs.

In summary, it is important to remember that operating a boat on a public waterway - just like operating a car on a public highway - is a privilege. The safety of many people -- not just the operator or his family or his friends -- is at issue. It is not unreasonable to expect people to know safe boating and to practice it. And it is in the national interest that they do so.

Hoedt leaves for USCG; Idaho seeks administrator

Jeff Hoedt, boating law administrator for the State of Idaho over the past eight years, has departed the Gem State to take a position as assistant branch chief for state affairs with the U.S. Coast Guard in Washington, DC.

As a result, the Idaho Department of Parks and Recreation is advertising for a replacement. Applications will be accepted through July 21, according to Mary Preuit, spokeswoman for the agency. Starting salary is \$32,074 and top salary range is \$42,994, she reported.

To obtain an application, contact Preuit at (208) 327-7444 or call Shanah Percy at the Idaho Personnel Commission at (208) 334-2263. The position is based in Boise.

Hoedt told *Small Craft Advisory* that he's been in the Idaho position since it was created in 1985. He began his new duties June 28. Δ

Marine Manufacturers unveil safety program

Marine manufacturers will use the kick-off of National Safe Boating Week, June 6-12, to bring attention to a nationwide initiative promoting safe boating and reasonable legislation for America's 75 million boaters. Prepared by the National Marine Manufacturers Association (NMMA), an industry group representing 1,700 boat, engine and accessory manufacturers, the NMMA Boating Safety Program has both an enforcement and educational thrust.

The enforcement focus of the program is centered on model legislation addressing key safety issues in recreational boating. Advanced at the state level, these model bills cover mandatory education for children, personal watercraft operation, use of Personal Flotation Devices and boating while under the influence.

On the education side, the industry initiative encompasses NMMA's Boat Smart Kids program, the NMMA/Miller Brewing Company Designated Driver

campaign, a voluntary boat certification program and widespread delivery of safety materials and videos to the boating public. Also slated for this summer is a new environmental brochure on the proper use, operation and maintenance of boating products for protection of the marine environment. Concerned conservation groups provided input for the brochure, which will be distributed with new boats coming off NMMA member assembly lines.

"NMMA's Boating Safety Program will be made available to state boating law administrators, legislators and marine trade associations," explained Mick Blackstone, director of NMMA Government Relations. "If these groups want to use all or part of the program, they can do so with assurance that NMMA and our member companies will support them in the legislative arena. While we have never embraced the introduction of more legislation and regulation, we think the model bills are positive, proactive steps in the right direction."

In the past, the industry has opposed mandatory boating education, still maintaining its opposition to licensing. "We have generally resisted legislation that doesn't go to the heart of on-water problems and adds costly administrative layers to agencies already pressed with enforcement duties," said Blackstone.

The marine industry's boating safety program targets educational efforts toward kids to establish a lifelong pattern of good boating habits and respect for the marine environment. And, it tackles alcohol-related accidents with stiffer enforcement and penalties for those who operate boats while drinking.

"While we've seen a steady downward trend in boating fatalities — currently 4 per 100,000 boats compared to 20 per 100,000 in the early '70s — we can do better," stated Blackstone. "We believe our safety package will aid those with the regulatory and legislative authority to do just that." Δ

Looking Ahead: Three UL Boating Accident Seminars remain on calendar

The final three 1993 Boating Accident seminars scheduled later this year by the Marine Group of Underwriters Laboratories will be held in Pennsylvania, Louisiana and New York, according to coordinator Ernie Kirstein (919) 549-1691.

The remaining sessions are scheduled:

- September 20-24 at the Stackhouse Training School near Bellefonte, PA. Contact Dan Martin at the Pennsylvania Fish and Boat Commission Bureau of Boating, P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 657-4540.

- October 11-15, at the Ramada Inn, 5116 Monkhouse Drive, Shreveport, LA 71109. The coordinator is L.

Ronald Morris, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898/ (504) 765-2982.

- October 25-29 at the Suffolk County Police Academy, 550 Mount Ave., West Babylon, NY. Contact Steven Taroli, Suffolk County Marine Bureau, General Delivery, Great River, NY 11739/ (516) 854-8382.

According to Kirstein, the seminars are all funded by an Aquatic Resources Trust Fund grant from the U.S. Coast Guard. There is no tuition fee. Seminars run from 1 p.m. Monday through noon on Friday. They are structured for veteran law enforcement officers, supervisors, accident investigation instructors and trainers. Δ

FY92 BOWLING SAFETY EXPENDITURES BY POSITION
[Combined State/Federal Funds]

STATE	Admin	%	LawEnf	%	Education	%	Health	%	Numbering	%	Accom	%	Total	
AL	\$470,519	13.92	\$2,316,359	67.32	\$195,456	5.92	\$153,099	6.22	\$386,024	11.42	50	0.02	\$1,369,034	100.00
AK	\$373,047	15.18	\$1,421,120	51.42	\$305,327	12.32	\$153,099	6.22	\$927,725	9.02	50	0.02	\$2,477,712	100.00
AR	\$48,269	7.72	\$161,699	74.32	\$66,000	10.62	\$0	0.02	\$46,516	7.42	50	0.02	\$525,484	100.00
CA	\$40,000	0.32	\$4,900,000	34.32	\$1,099,552	7.62	\$0	0.02	\$4,900,000	34.32	50	0.02	\$10,000,000	100.00
CO	\$16,000	2.02	\$343,520	40.62	\$343,490	40.62	\$0	0.02	\$343,490	40.62	50	0.02	\$1,366,500	100.00
CT	\$221,003	11.22	\$1,426,697	72.02	\$131,631	6.62	\$37,062	1.92	\$97,012	10.62	50	0.02	\$1,915,156	100.00
DC	\$24,061	1.72	\$1,368,401	91.02	\$2,707	0.22	\$0	0.02	\$63,357	4.32	50	0.02	\$1,455,156	100.00
FL	\$1,175,916	4.52	\$22,205,759	84.42	\$513,190	13.72	\$0	0.02	\$208,873	7.72	50	0.02	\$26,391,866	100.00
GA	\$620,043	16.02	\$8,044,240	54.72	\$813,190	13.72	\$0	0.02	\$550,862	14.72	50	0.02	\$17,316,155	100.00
HI	\$1,320,007	16.82	\$843,178	61.32	\$776,134	2.22	\$334,920	9.52	\$127,966	3.62	50	0.02	\$3,120,201	100.00
IL	\$220,007	16.82	\$617,478	47.92	\$115,740	5.02	\$447,519	0.02	\$319,240	24.72	50	0.02	\$1,280,957	100.00
IN	\$111,768	6.92	\$1,377,051	86.32	\$60,023	3.72	\$0	0.02	\$72,306	4.32	50	0.02	\$1,622,030	100.00
IA	\$0	0.02	\$301,874	41.02	\$75,260	0.12	\$46,416	0.52	\$31,398	3.42	50	0.02	\$830,856	100.00
KS	\$80,051	1.72	\$114,785	66.52	\$26,469	3.72	\$16,226	3.42	\$116,976	24.72	50	0.02	\$248,655	100.00
KY	\$250,782	10.02	\$1,050,592	74.52	\$386,619	13.52	\$0	0.02	\$295,680	9.02	50	0.02	\$1,819,721	100.00
LA	\$0	0.02	\$171,963	40.32	\$20,900	3.72	\$0	0.02	\$269,566	46.02	50	0.02	\$562,917	100.00
ME	\$1,076,784	0.72	\$9,154,519	74.22	\$303,519	2.52	\$599,281	4.92	\$2,404,650	9.02	50	0.02	\$12,330,761	100.00
MD	\$175,082	10.12	\$1,159,804	49.92	\$603,603	22.22	\$0	0.02	\$403,717	17.02	50	0.02	\$2,748,016	100.00
MA	\$563,866	11.02	\$4,076,901	79.92	\$51,472	1.02	\$55,900	1.32	\$799,160	22.02	50	0.02	\$5,102,098	100.00
MI	\$237,258	7.12	\$1,414,798	38.92	\$336,964	26.22	\$130,204	3.62	\$371,069	28.32	50	0.02	\$1,516,309	100.00
MS	\$0	0.02	\$576,351	44.82	\$454,820	16.72	\$50,963	2.72	\$0	0.02	50	0.02	\$1,284,307	100.00
MO	\$118,609	15.42	\$2,593,101	95.22	\$202,460	43.72	\$0	0.02	\$46,521	9.62	50	0.02	\$1,525,573	139.52
MT	\$59,624	12.92	\$156,853	33.02	\$83,143	37.42	\$0	0.02	\$116,023	19.22	50	0.02	\$246,150	100.00
NE	\$29,961	11.22	\$112,659	49.52	\$150,230	9.62	\$10,353	1.12	\$20,900	0.02	50	0.02	\$227,603	100.00
NV	\$106,770	11.42	\$964,384	56.72	\$174,605	13.32	\$10,353	1.12	\$158,921	19.22	50	0.02	\$1,644,266	100.00
NH	\$503,551	30.52	\$886,914	44.92	\$401,000	35.12	\$151,517	13.32	\$0	0.02	50	0.02	\$1,313,074	100.00
NJ	\$845,066	9.62	\$2,489,559	21.72	\$184,130	2.62	\$3,786,265	64.32	\$779,992	21.42	50	0.02	\$5,106,309	100.00
NY	\$270,324	3.92	\$2,362,648	33.92	\$116,024	4.02	\$184,653	6.42	\$372,440	5.32	50	0.02	\$1,516,309	100.00
NC	\$95,171	0.32	\$1,978,407	68.22	\$79,432	10.22	\$0	0.02	\$46,521	9.62	50	0.02	\$2,525,573	139.52
ND	\$0	0.02	\$356,392	01.52	\$279,432	10.22	\$0	0.02	\$1,353,800	8.02	50	0.02	\$2,105,758	100.00
OH	\$2,860,429	30.52	\$1,202,640	30.92	\$2,220,567	27.72	\$34,780	0.42	\$1,355,244	14.42	50	0.02	\$9,381,650	100.00
OK	\$285,905	7.02	\$1,076,619	41.62	\$102,624	3.72	\$20,469	0.62	\$635,101	12.02	50	0.02	\$1,960,641	100.00
OR	\$1,015,535	23.22	\$2,354,620	54.72	\$304,630	11.62	\$790,001	1.82	\$300,545	6.72	50	0.02	\$4,376,419	100.00
PA	\$177,749	34.22	\$600,358	77.02	\$35,738	2.32	\$23,137	0.22	\$250,398	28.32	50	0.02	\$1,366,739	100.00
P1	\$133,356	9.32	\$2,502,550	34.32	\$17,202	0.52	\$123,441	3.72	\$7,430	0.02	50	0.02	\$1,329,470	100.00
SD	\$11,591	5.02	\$105,188	51.22	\$70,952	2.42	\$0	0.02	\$7,430	0.02	50	0.02	\$1,329,470	100.00
SC	\$31,180	0.02	\$1,951,864	58.92	\$1,109,632	13.22	\$0	0.02	\$2,166,663	27.92	50	0.02	\$8,409,068	100.00
TX	\$194,032	12.32	\$1,199,304	75.92	\$49,292	3.12	\$0	0.02	\$119,446	7.12	50	0.02	\$1,579,635	100.00
UT	\$23,263	4.12	\$381,519	87.62	\$59,026	10.42	\$1,074	0.22	\$69,550	17.22	50	0.02	\$1,617,732	100.00
VA	\$0	0.02	\$451,572	41.02	\$101,846	9.22	\$0	0.02	\$508,082	46.12	50	0.02	\$1,084,274	100.00
WV	\$243,570	22.52	\$353,465	37.02	\$143,004	7.12	\$21,200	0.02	\$131,162	30.72	50	0.02	\$433,601	100.00
WY	\$67,107	13.52	\$271,697	64.72	\$211,912	5.02	\$0	0.02	\$969,655	15.52	50	0.02	\$1,672,255	100.00
WY	\$24,418	0.22	\$176,078	58.62	\$30,012	10.02	\$0	0.02	\$69,072	23.12	50	0.02	\$279,580	100.00
AS	\$0	0.02	\$0	0.02	\$0	0.02	\$0	0.02	\$0	0.02	50	0.02	\$141,702	100.00
GU	\$0	0.02	\$0	0.02	\$0	0.02	\$0	0.02	\$0	0.02	50	0.02	\$150,548	100.00
CHMI	\$128,746	3.52	\$591,881	16.12	\$71,741	2.02	\$16,533	3.22	\$300,654	5.32	50	0.02	\$1,109,555	100.00
VI	\$1,065	30.72	\$25,117	75.12	\$20,349	6.02	\$1,656	5.22	\$0	0.02	50	0.02	\$355,027	100.00
TOTAL	\$17,194,236	10.12	\$102,496,306	60.62	\$14,932,575	6.82	\$6,040,561	3.02	\$19,465,209	11.52	50	0.02	\$169,605,165	100.00

FY92 Federal Post Safety Account funds allocated to the States: \$33,110,885.

